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A

MESSAGE

OF THE

President of the United States,

TO

CONGRESS,

RELATIVE TO

FRANCE

AND

GREAT BRITAIN:

DELIVERED, DECEMBER 5, 1793.

WITH

THE PAPERS THEREIN REFERRED TO.

Published by Order of the House of Representatives.

PHILADELPHIA:
PRINTED FOR MATHEW CAREY,
NO. 118, MARKET-STREET.

OCTOBER 24, 1795.

[*Price 87½ Cents.*]

UNITED STATES, *December* 5th, 1793.

GENTLEMEN *of the* SENATE, *and of the* HOUSE *of* REPRESENTATIVES.

AS the preſent ſituation of the ſeveral nations of Europe, and eſpecially of thoſe with which the United States have important relations, cannot but render the ſtate of things between them and us, matter of intereſting inquiry to the legiſlature, and may indeed give riſe to deliberations, to which they alone are competent, I have thought it my duty to communicate to them, certain correſpondences, which have taken place.

The repreſentative and executive bodies of France have manifeſted generally, a friendly attachment to this country, have given advantages to our commerce and navigation, and have made overtures for placing theſe advantages on permanent ground; a decree, however, of the National Aſſembly, ſubjecting veſſels laden with proviſions to be carried into their ports, and making enemy goods lawful prize in the veſſel of a friend, contrary to our treaty, though revoked at one time, as to the United States, has been ſince extended to their veſſels alſo, as has been recently ſtated to us. Repreſentations on the ſubject will be immediately given in charge to our miniſter there, and the reſult ſhall be communicated to the legiſlature.

It is with extreme concern, I have to inform you, that the proceedings of the perſon, whom they have unfortunately appointed their miniſter plenipotentiary here, have breathed nothing of the friendly ſpirit of the nation, which ſent him; their tendency, on the contrary, has been to involve us in war abroad, and diſcord and anarchy at home. So far as his acts, or thoſe of his agents, have threatened our immediate commitment in the war, or flagrant inſult to the authority of the laws, their effect has been counteracted by the ordinary cognizance of the laws, and by an exertion of the powers confided to me. Where their danger was not imminent, they have been borne with, from ſentiments of regard to his nation; from a ſenſe of their friendſhip towards us; from a conviction, that they would not ſuffer us to remain long expoſed to the action of a perſon, who has ſo little reſpected our mutual diſpoſitions; and, I will add, from a reliance on the firmneſs of my fellow-citizens in their principles of peace and order.

In the mean time, I have reſpected and purſued the ſtipulations of our treaties, according to what I judged their true ſenſe; and have withheld no act of friendſhip, which their affairs have called for, from us, and which juſtice to others, left us free to perform. I have gone further; rather than employ force for the reſtitution of certain veſſels, which I deemed the

United States bound to reſtore, I thought it more adviſable to ſatisfy the parties, by avowing it to be my opinion, that if reſtitution were not made, it would be incumbent on the United States to make compenſation. The papers now communicated, will more particularly appriſe you of theſe tranſactions.

The vexations and ſpoliation underſtood to have been committed on our veſſels and commerce, by the cruiſers and officers of ſome of the belligerent powers, appeared to require attention. The proofs of theſe, however, not having been brought forward, the deſcription of citizens, ſuppoſed to have ſuffered, were notified, that on furniſhing them to the executive, due meaſures would be taken to obtain redreſs of the paſt, and more effectual proviſions againſt the future. Should ſuch documents be furniſhed, proper repreſentations will be made thereon, with a juſt reliance on a redreſs proportioned to the exigency of the caſe.

The Britiſh government having undertaken, by orders to the commanders of their armed veſſels, to reſtrain, generally, our commerce, in corn and other proviſions, to their own ports, and thoſe of their friends, the inſtructions now communicated, were immediately forwarded to our miniſter at that court. In the mean time, ſome diſcuſſions on the ſubject took place between him and them: Theſe are alſo laid before you, and I may expect to learn the reſult of his ſpecial inſtructions, in time to make it known to the legiſlature, during their preſent ſeſſion.

Very early after the arrival of a Britiſh miniſter here, mutual explanations on the inexecution of the treaty of peace, were entered into, with that miniſter; theſe are now laid before you, for your information.

On the ſubjects of mutual intereſt between this country and Spain, negociations and conferences are now depending. The public good requiring that the preſent ſtate of theſe ſhould be made known to the legiſlature, in confidence only, *they ſhall be the ſubject of a ſeparate and ſubſequent communication.*

G°: WASHINGTON.

PAPERS &c.

TRANSLATION.

PHILADELPHIA, May 22, 1793.
2d year of the French Republic.

Liquidation of the Debt of the United States to France.

The Citizen GENET, *Miniſter Plenipotentiary of the French Republic, to Mr.* JEFFERSON, *Secretary of State of the United States of America.*

SIR,

THE executive council of the French Republic has learnt through my predeceſſor, the Citizen Ternant, the readineſs with which the government of the United States of America attended to the facilitation of the purchaſes which that miniſter was charged to make in the United States, on account of the French Republic; as alſo the acquittal of the draughts of the colonies for which imperious circumſtances obliged it to provide. The executive council, ſir, has charged me to expreſs to the American government, the acknowledgment inſpired by all the marks of friendſhip which it has given on this ſubject to the French nation; and to prove to it the reciprocity of our ſentiments, it has determined to give at once a great movement to the commerce of France with America, in drawing henceforth from the United States the greateſt part of the ſubſiſtence and ſtores neceſſary for the armies, fleets and colonies of the French Republic.

The executive council has entruſted me with the direction of theſe great and uſeful operations, and has given me particular powers comprehended in the reports, and in the reſolutions now encloſed, in virtue of which I am authoriſed by the council and by the national treaſury of France, to employ the ſums of which the United States can effect the payment (towards their debt to France) or thoſe which I can procure on my perſonal draughts, payable by the national treaſury, in purchaſing proviſions, naval ſtores, and in fulfilling other particular ſervices, conformably to the orders which have been given to me by the miniſter of the interior, of war, of the marine, and of foreign affairs.

The government of the United States is too enlightened, not to perceive the immenſe advantages which will reſult from this meaſure to the people of America; and I cannot doubt that, knowing the difficulties which different circumſtances might oppoſe at this moment, to the exe-

cution of the preſſing commiſſions which have been given to me, if it ſhould not facilitate to us ſtill the receipt of new ſums by anticipation, it will find in its wiſdom, and in the reports now encloſed, of the miniſter of the public contributions of France, meaſures proper to anſwer our views, and to ſatisfy our wants.

It does not belong to me to judge if the Preſident of the United States, is inveſted with powers ſufficient to accede to our requeſt, without the concurrence of the legiſlative body: but I will permit myſelf, to obſerve to you, ſir, that the laſt anticipated payments, which took place, prove it, and that this queſtion appears equally decided, by the act of Congreſs, which authoriſes the executive power not to change the order of the reimburſements of the foreign debt of the United States, unleſs it ſhall find therein an evident advantage. Now what advantage more ſenſible can we offer to you, than that of diſcharging your debt to us with your own productions, without exporting your caſh, without recurring to the burdenſome operations of bankers? It is furniſhing you, at the ſame time, with the means of paying your debts, and of enriching your citizens; in ſhort it is to raiſe the value of your productions, and conſequently of your lands, in eſtabliſhing a neceſſary competition between us and a nation which has in a meaſure reſumed with a great deal of art and of ſacrifices, the monopoly of your own productions. It is time, ſir, that this commercial revolution, which I conſider the completion of your immortal political revolution, ſhould accompliſh itſelf in a ſolid manner; and France appears to me to be the only power which can operate this incalculable good. She deſires it ardently. The wiſe arrangements of which I have now given you an account, are the proof of it. It remains then with your government to ſecond the views which are ſuggeſted to us by our conſtant friendſhip for our brethren the Americans, and by the deſire we have to ſtrengthen the bonds which unite us to them. It will be a pleaſing duty to me, ſir, to conform myſelf in the adminiſtration which is confided to me, to theſe ſentiments of the French nation, for all the United States; and in order that every one of them may participate in the extenſion of our commercial relations, I will take care to diſtribute my purchaſes among the different ſtates of the Union, as much as the natural productions of their ſoil and the nature of their commerce, will permit. I will neglect no means, moreover, in order that the modes of purchaſe preſcribed to me, may enable, not only the American and French merchants, but alſo the land-holders and farmers to take advantage of the benefits which may reſult from our purchaſes.

GENET.

(Copy.)

American Debt, TRANSLATION.

1ſt Report.

CITIZEN Genet, Miniſter Plenipotentiary of the French Republic to the United States of America, has been charged by the proviſory executive council, to ſolicit the American government, for

the payment of the ſums remaining due to France by the ſaid ſtates, though all the terms ſtipulated for the reimburſement have not yet expired.

The proviſory executive council were led to this reſolution,

1. By the extenſive wants of the Republic, as well in ſubſiſtence for interior conſumption, as for warlike ſtores and proviſions required for the army by ſea and land.

2. From the convenience with which a part of theſe ſtores and proviſions may be purchaſed in the different markets of the United States.

3. From the advantage which the Republic would find in making theſe purchaſes in, and with the monies ariſing from the American debt.

4. In fine, from the conſideration that the United States might find it convenient to anticipate the reimburſements of the monies due to France, when they were to be employed within themſelves in purchaſing the productions of their ſoil.

In conſequence, the Citizen Genet has concerted with the miniſters of the interior, of war, of the marine, and of foreign affairs, in order to obtain a ſtatement of the expenſes of their ſeveral departments. According to this, the funds to be diſpoſed of by Citizen Genet, will amount to about ſeventeen millions of livres tournois, a ſum not equal to the whole of the balance due by the United States to France.

But here two queſtions ariſe with Citizen Genet—

1ſt. How to arrange the matter ſo as that this ſum ſhall be properly accounted for in the national treaſury, through which it ought to paſs?

And ſuppoſing, ſecondly—That the purchaſes of warlike ſtores and proviſions are indiſpenſable, and ought to be made and expedited to France with celerity, the Miniſter Genet deſires to know how the money can be replaced, in caſe the American government ſhould refuſe to anticipate the reimburſements

OBSERVATIONS.——1ſt. *On the Conſiſtency.*

Suppoſing that the United States ſhould conſent to anticipate their reimburſements; they may do ſo, in two ways—

By ſpecie, or bank notes having an equal currency;

Or by ſtate ſecurities on intereſt, and reimburſable on a given term.

The firſt of theſe is accompanied with no difficulty. The miniſter Genet will furniſh his aſſignments or notes on the treaſury of the American government, for the warlike ſtores and proviſions, and other preſſing wants, for expenſes relative to the ſupport of Conſuls—for extraordinary and ſecret purpoſes of embaſſy—and for victualling and refitting veſſels. Theſe notes will be ſtamped by the department of the miniſtry, upon the *compatibility* of whom they will have been furniſhed; the American treaſury will return them into the French treaſury, in payment of the debt of the United States; when they will be paſſed to the credit of the ſaid ſtates; and to the debit of each department of the miniſtry whence they iſſued, or whoſe ſtamp they

bear, as a part of the ſums allowed by the National Convention to each, for their expenſes.

The method, in the ſecond place, ſhould be the ſame, becauſe the Miniſter Genet will not accept ſtate ſecurities of the American government, unleſs he can make uſe of them as ready money, of which he is to aſſure himſelf before the concluſion of any tranſaction on either ſide.

Then the receipts which the Miniſter Genet will furniſh to the American government, with the ſtamp of the department for which their value ſhall have been employed, ſhall have the ſame effect with regard to this government, and the French treaſury, as if their value had been paid in ſpecie.

It might happen that the ſtate ſecurities which the Miniſter Genet ſhould receive inſtead of ready money, as above mentioned, may loſe ſomething of their value by depreciation; but then this loſs is to be carried to the debit ſide of the account, which the Miniſter Genet will furniſh, of the manner in which they ſhall have been employed, for the departments of the interior, of war, of the marine, and of foreign affairs.

2d. *In caſe the American government ſhould not conſent to any anticipation in the payment of the debt of the United States to France.*

There are but two methods to provide for this improbable contingency—if we can ſuppoſe that the United States have any intereſt in acknowledging the French Republic, and living on friendly terms with her.

Even admitting that we could not reckon on the good will of the United States, the ſituation of the finances, or the exceſſive dearneſs of the metals, in compariſon to notes, not permitting us to export a large ſum of dollars to America, we ſhould be obliged to make uſe of drafts on Europe: they muſt be either on London and Amſterdam, by the help of a credit to be obtained for Citizen Genet, and of which he muſt give information in America, or upon the national treaſury of France itſelf.

The Engliſh government having determined to make war on us, the firſt method cannot and ought not to be made uſe of.—It would be not only impoſſible to obtain a credit to the end of our operations, but it would be attended with great expenſe, from the low ſtate of exchange occaſioned by the war. The only reſource then remaining, would be to furniſh orders on the national treaſury: but if theſe ſhould enjoy the credit which they merit, there is reaſon to believe, that the Americans would ſtill prefer them for aſſignments of the debt of the United States. So that it is very probable, that this means of managing the matter in America, the beſt the Republic is at preſent capable of deviſing, is that on which the executive council may, with greateſt ſafety rely, unleſs the United States would wiſh to render themſelves hoſtile towards the Republic, which, from every appearance, is unlikely to be the caſe. But it is proper we ſhould provide for every contigency, the omiſſion of which might cauſe Citizen Genet

embarraſſment; therefore, the miniſter of public contributions propoſes to the proviſory executive council the following

DECISION.

The national treaſury will furniſh Citizen Genet with a declaration in writing, authorizing him to employ, agreeably to the orders of the miniſters of the interior, of war, of the marine, and foreign affairs, the ſums he ſhall receive from the government of the United States, on account of the debt due to France, or the complete balance thereof, as well principal as intereſt, in conformity to the inſtructions given to Citizen Genet, on that ſubject.

The national treaſury will authorize the Citizen Genet to furniſh or cauſe to be furniſhed upon his banker, bills of exchange drawn at two months ſight, to the amount of the ſums requiſite for the payment of ſubſiſtence, warlike ſtores, and other expenſes of thoſe miniſters. The ſaid bills of exchange ſhould be employed to make up the ſaid payments only in caſe Citizen Genet ſhould not be able to do ſo, either in whole or in part, with the funds ariſing from the American debt, which he is charged to negociate.

And in fine, in order to induce the United States to make this reimburſement, in caſe they ſhould not be able to effect it, either in whole or in part, with ſpecie, the Citizen Genet is authorized to accept it from the American government in ſuch ſtate notes, bearing intereſt, as ſhall be received at par, by the perſons to whom Citizen Genet may have payments to make on account of the Republic. The orders which Citizen Genet ſhall furniſh on the treaſury of the United States, in exchange for ſpecie or ſtate notes, ſhall carry in their faces the declaration of the department for which they ſhall have been employed: the Treaſurer of the United States, after diſcharging their amount, ſhall ſend them to the French treaſury, where they will be received as ſo much ready money, in diſcharge of the debt of the United States, and as expenditures in part of the ſums allowed by the National Convention to the three departments deſignated in the *orders*.—The bills of exchange on the national treaſury, ſhall in the ſame manner bear the ſtamp of the miniſterial department, for the expenſe of which they have been furniſhed, and ſhall be charged by the national treaſury, on account of the ſum allowed by the National Convention to the ſaid department.

The Citizen Genet ſhall tranſmit to each miniſter proper ſtatements, ſupported with vouchers, as well of the uſe made of the funds agreeably to his orders, as of the manner in which he ſhall have procured them.

In caſe the Citizen Genet ſhall have received from the American government, bills or ſtate ſecurities in reimburſement of the debt of the United States, which he could not paſs without ſome ſacrifice; the loſs, in that caſe, ſhall be conſidered as part of the expenſes of purchaſe, tranſportation, or payments, confided to him.

Should the council approve of this deciſion, a copy thereof ſhall be ſent to the Citizen Genet, certified by the ſecretary of the council, as

well as the miniſters of the interior, of war, of the marine, and of foreign affairs.

Paris, the 2d January 1793—the 2d year of the Republic.

The preſent *memoire* has been read and approved in the proviſory executive council, the 4th of January, 1793—in the 2d year of the Republic.

The Secretary of the Council,
GROUVELLE.

(Signed) LE BRUN,
Miniſter for Foreign Affaires.

I hereby certify, that the foregoing is a true copy from the original in my poſſeſſion.—Philadelphia, 22d May, 1793—in the ſecond year of the Republic.

The Miniſter of the French Republic,
GENET.

TRANSLATION.

Extract from the regiſters of the deliberations of the proviſory executive council, of the 4th January, 1793, in the ſecond year of the Republic.

THE miniſter for foreign affairs, having informed that the citizen Genet, appointed Miniſter Plenipotentiary, from the French Republic to the Congreſs of the United States of America, and that it would be neceſſary for the council, to decide definitively on his inſtructions for the fulfilment of his miſſion.

The draft of the ſame was accordingly read—the council in adopting it, declares that the copy thereof for citizen Genet ſhall be ſigned by the Preſident, and counter-ſigned by the Miniſter for foreign affairs.

After which the executive council, wiſhing to determine the form in which the full powers given to citizen Genet, ſhall be exerciſed relatively to the general direction of conſular buſineſs, according to the preſent ideas of the Miniſter of the marine and of foreign affairs, who have obſerved the neceſſity of a new organization of the conſulates and vice-conſulates in America, has conſidered and reſolved on the following, which ſhall ſerve as inſtructions to citizen Genet, for whatever may concern this part of his miſſion, and of which alſo a copy ſigned by the Preſident of the council and counter-ſigned by the miniſter of the marine, ſhall be given him. Here follows the inſtruction concerning the general affairs of the conſulates and vice conſulates of North-America.*

The executive council then took into conſideration the particular miſſion of Citizen Genet, Miniſter Plenipotentiary from the Republic of France to the Congreſs of the United States, on the ſubject of negociation relative to the reimburſement of the ſums due or that may become due of the debt of the United States to the French Republic. An account was given of the different diſpoſitions and ſteps already taken for this purpoſe. It was obſerved that conſidering the

* *This inſtruction is depoſited in the office of the Miniſter for foreign affairs, and a certified copy thereof has been delivered to Citizen Genet.* G.

utility of applying the product of the reimburſements which may be effected through Congreſs, to the purchaſe of warlike ſtores and proviſions, which it may be convenient to the Republic to procure in the different markets of the United States; that the Citizen Genet had concerted on this head with the miniſters of the interior, of war, of the marine, and of foreign affairs, in order to determine the maſs of the funds, confided to him for theſe purchaſes—but that ſeveral points occurred, which required to be definitively ſettled by the council, either as to the forms of *compatibility*, or the ſupplying of any deficiency in thoſe funds, in caſe the American government ſhould not realize its reimburſements in proportion to the purchaſes made on account of the Republic.

Whereupon the proviſory executive council, after having heard and diſcuſſed the reports and meaſures preſented by the miniſter of contributions, agree upon the following:

1ſt. The Citizen Genet ſhall be authoriſed to employ, agreeably to the orders of the miniſter of the interior, of war, of the marine and foreign affairs, the ſums which may be paid to him on account of the debt due by the United States, to France, or the whole reimburſement thereof.

2d. In order to facilitate theſe reimburſements, the Citizen Genet, in caſe he ſhall not be able to obtain them in ſpecie, may accept them in ſuch ſtate-notes as ſhall be remitted to him by the American government, and received as ready money, by the perſons to whom Citizen Genet may have payments to make on account of the Republic.

3d. The orders which the Citizen Genet ſhall furniſh upon the treaſury of the United States, in exchange for their value, ſhall indicate the department on account of which they may be drawn. The treaſury of the United States after diſcharging theſe orders, ſhall tranſmit them to the treaſury of the French Republic, where they ſhall be conſidered as ſo much money, in diſcharge of the debt of the United States, and as making a part of the ſums placed by the National Convention, to the diſpoſition of the miniſterial departments deſignated in the orders.

4th. In caſe the reimburſements of the United States, ſhould not be effected in time, or a ſum ſufficient obtained—the Citizen Genet ſhall be authoriſed to furniſh on the general banker of the national treaſury, bills of exchange, at two months ſight, to the amount of the ſums directed to be employed by him in the payment of proviſions, warlike ſtores and other expenſes ordered by the ſaid miniſters. Theſe *bills of exchange*, as well as the *orders*, ſhall be ſtamped with the name of the miniſterial department, on account of which they ſhall have been furniſhed, in order that the national treaſury may debit each, with the ſum expended on its account.

5th. The Citizen Genet ſhall furniſh each miniſter with a proper ſtatement, accompanied with vouchers in ſupport of it, as well of the application of the funds, conformably to his orders, as of the manner in which he ſhall have obtained them.

6th. In case the Citizen Genet shall have received from the American government, bills or state securities, *(bons d'etat)* in reimbursement of the debt of the United States, which he could not pass without some sacrifice, the loss in that case shall be considered as part of the expenses of purchases, transportation or payments confided to him.

7th. A certified extract of this deliberation, shall be given to the committee of the national treasury, to enable them to concur in expediting the above mentioned arrangements; and in order thereto, to furnish the Citizen Genet with declarations and powers sufficient to ensure the success of the important operations with which he is charged.

Duplicate conformable to the register,

(Signed) GROUVELLE,

Secretary of the Council.

I hereby certify that the aforegoing is a true copy from the original in my possession.

The Minister from the French Republic, to the United States of America.

GENET.

TRANSLATION.

American Debt, 2d Report. *Report of the Minister of public contributions, on the liquidation of the American Debt.*

THE approaching departure of the Citizen Genet, on his embassy to the United States of America, requires that the provisory executive council should again take up the subject of the debt due by the United States to the Republic of France.

I have given information to Citizen Genet of the offers made by Colonel Smith of New-York, to procure to the Republic not only the reimbursement of what remains due from the United States, although not yet payable, but for the application of it, either for supplies for the army, or wheat, flour and salted provisions in augmentation of our internal supplies.

Colonel Smith has gone to England, and has left no other accounts relative to the operations he proposed to enter upon; so that all is reduced to the preliminaries of the negociation.

These preliminaries consist of a letter from the minister of public contributions of the 7th of November last to Colonel Smith, after having been referred to the executive council.——It contains,

1st. An extract from the registers of the council, approving the offers of Colonel Smith.

2d. The account current of the United States with the French Republic, and that of the interest of the 1st of January next.

3d. Statement of the loss which the national treasury would sustain on the reimbursements which it has received from the United States of America, if they are not held accountable for the difference between the assignats which it received and the specie.

4th. An approbation of the reduction to sterling money of the sum due to the French Republic at the rate of 21s. or one guinea for 25 livres, 10 sous, French money, as Colonel Smith was to obtain it, which

ſum, conſiſting of the capital due, of the intereſt up to the firſt of January next, and the loſs on payments already made, was to be paid at London.

5. The approbation of the price, and conditions on which Colonel Smith offered to furniſh firelocks, deliverable at Dunkirk, agreeably to ſamples to be ſent there by him.

I have tranſmitted a copy of all theſe papers to Citizen Genet, to whom the accounts will prove uſeful in negociating the reimburſement of the debt of the United States, and the ſums ariſing from the reimburſement for the neceſſities of the Republic.

The Citizen Genet will obſerve that the amount will have been diminiſhed on his arrival in the United States, if we calculate the advances made by the federal treaſury, on the requiſition of Citizen Ternant, to ſatisfy the demands of caſh and proviſions made at Philadelphia, by the adminiſtrators of the French part of St. Domingo ; advances which the federal treaſury will of courſe count as ſo much of the balance due by the United States to the Republic of France.

The Citizen Genet afterwards requeſted inſtructions as well with reſpect to the conditions on which he ſhould accept the reimburſement he hopes to obtain from the American government, as to the employment of the ſums which ſhall be delivered to him.

OBSERVATIONS.

There can be no doubt but that the American government will be liberal towards France, and not reap a benefit from acquitting itſelf with aſſignats. However as a part of the debt yet unpaid, is not become due, and a law relative to the acquitment of this debt preſcribes to the executive power of America, not to anticipate any payment unleſs upon *advantageous* terms for the United States ; it appears that this ought to be fulfilled previous to the executive's entering into a negociation.

This is at leaſt the reſult of a letter written by Secretary Hamilton on the 7th of March laſt, to the Citizen Ternant. He obſerves to that Ambaſſador that the ſums lent by France, were borrowed in Holland ; that ſix months elapſed between the time of obtaining the money at Amſterdam, and its recipt at the treaſury in America ; and that the intereſt paid during that term was a dead loſs. But this loſs can have no relation to France. The intereſt is due to her, from the moment of the payment, and payment was made the inſtant that the money was lodged at Amſterdam to the diſpoſal of the Americans.

This object does not appear then to give riſe to any compenſation ; and without doubt the American treaſury will think it proper to hold to the advantage the law requires for authorizing the anticipation of the payments, which the United States are obliged to make to France.

The law does not ſpecify this advantage. What ſhould it be ? The employment of the money on account of the French Republic within the United States, is a very great advantage for them, and this employment ariſes from circumſtances which probably would no longer exiſt, if the American treaſury ſhould refuſe to anticipate reimburſe-

ments. The advantage here is real; it conſiſts not only in a conſiderable exportation of American produce, which will be paid for with thoſe anticipated reimburſements; but alſo in the arrangements which the American government may take by means of ſtate notes, negotiable in America itſelf.—Arrangements which would relieve her from all financial operations in Europe, for the purpoſe of acquitting themſelves even in France, where the United States are obliged to make payment.

And the employment of thoſe ſums in America, due to the French Republic, ſo convenient to the United States in the preſent circumſtances, would ſuit the convenience of the Republic.

The miniſter for foreign affairs has already ordered a purchaſe of grain, flour, and ſalted proviſions, to the value of 3,000,000 livres, on account of the American debt, and this purchaſe could not be paid for more advantageouſly than in this manner.

It would be convenient to the Republic to give further commiſſions for grain, even to the amount of the balance due by the United States; nor could this be blameable, as every circumſtance concurs in inviting the proviſory executive council to provide the Republic with large ſupplies of proviſions, and promptly; and whether in reſpect to the market or the payment, nothing could at this moment be more beneficial to America, and no money obtained eaſier than that with which the United States could pay us.

The ſum to be diſpoſed of, will not perhaps prove ſo conſiderable as were to be wiſhed, conſideriug the wants of the French colonies, which undoubtedly will have occaſioned new demands to be made at Philadelphia, ſince thoſe acquitted by the Citizen Ternant, of the monies remitted to him by the federal treaſury, as is ſtated in his letter of the 9th of March.

It remains to ſpeak of the conditions on which the American government would exonerate itſelf towards the Republic;—thoſe propoſed by Secretary Hamilton, in his letter of the 23d of June, 1792, to the Miniſter Plenipotentiary of France.

He reminds us that it has already been agreed, between the French government and the United States, warlike ſtores *(munitions)* furniſhed, and the payments made, and to be made in the United States, on account of the debt due to France, ſhould be liquidated agreeably to the intrinſic value of the metals in the two countries.

This agreement is the moſt equitable that could poſſibly be entered into, when we conſider that France ſhould be paid at her own treaſury, agreeably to the above method of calculation, the expenſe of tranſportation of the metals from America to France, and the inſurance. But by anticipation of reimburſement, this *bonification* would be abandoned.

In conſequence of this convention, Secretary Hamilton fixes the quantity of pure gold and pure ſilver contained in a *Louis* and French crown: he compares them with the quantity of the ſame matters contained agreeably to law in a dollar; and concludes (errors in information or calculation excepted) that a French livre is equal to

eighteen 15-00 *cents* of money, equal to the hundredth part of a dollar.

It is upon this principle he propoſes to convert our French livres into the dollars, which will be delivered in the United States to the French agents authoriſed to tranſact this buſineſs.

I think this reduction ſtill more advantageous to the Republic, than the promiſe made by Colonel Smith, in caſe we ſhould obtain anticipated reimburſements. Be it as it may, we cannot refuſe it; and doubtleſs Secretary Hamilton takes for granted, that all the articles of the account current, between the French Republic and the United States, will be turned into dollars agreeably to this ſtandard. This account is in the poſſeſſion of Citizen Genet—it is neceſſary only to make it out in two columns on the debit and credit ſides—to wit—an inner column for the French livres, and an outer column for the American dollars.

The account of intereſt ſhould be made *without this*—fixing an epoch poſterior to the 1ſt of January, 1793, for cloſing the ſame, after the arrival of Citizen Genet, which cannot be ſo early as that date.

Thus the account current, of which he is the bearer, will ſerve him only as a note fixing the dates and ſums by which another account of capital and intereſt may be made out, and the converſion of each article therein, into dollars, will do away the neceſſity of an account of loſſes by exchange. The reimburſements made and not compriſed in this account are to be added to it.

This brings me to the obſervations which I was induced to make in reply to thoſe of Citizen Genet, relative to the liquidation and reimburſement of the American debt, and therefore propoſe to the council, the following

DECISION.

That the Citizen Genet, Miniſter Plenipotentiary of the Republic to the United States of America, be charged by the proviſory executive council, to ſolicit from the American government the reimburſement of the balance remaining due, capital and intereſt, by the United States to the French Republic,

That he aſſign as a reaſon for this, the preſſing neceſſities of the Republic, occupied in the defence of its liberty and independence, as the United States defended theirs when this ſum was lent to them.

That, as a law of the United States authoriſes the federal government to make theſe reimburſements by anticipation, only in caſe of an advantage reſulting to the United States, by ſo doing, the Citizen Genet promiſes the government, that the whole ſum, delivered to him, ſhall be employed in the purchaſe of ſupplies the growth of the United States, purchaſed and paid for within the ſame.

That, as the United States wiſh to reimburſe what they owe to France, without reaping advantage therefrom in any manner, from the preſent ſtate of exchange, the Citizen Genet be authoriſed to conſent to a converſion of French livres into dollars, upon the rule fixed upon,

viz—the quantity of pure gold and pure ſilver, contained in a Louis, and in a French crown, and in the American dollars, agreeably to the laws of both countries, fixing the value of thoſe coins.

That the Citizen Genet employ the ſums he ſhall receive from the American government, agreeably to the diſpoſitions for that purpoſe made in concert between the miniſters of war, of the marine, and foreign affairs.

And that certified copies of this report, of the obſervations, and of the deciſion, ſhall be tranſmitted to the Citizen Genet, for his inſtructions.

Read and approved, in the proviſory executive council at Paris, the 4th of January, 1793—in the 2d year of the French Republic.

MONGE, *Preſident.*

LE BRUN, *Miniſter for Foreign Affairs.*

National Treaſury. TRANSLATION.

Copy of a letter written by the Commiſſioners of the National treaſury, to the Preſident of the Proviſory Executive Council.

CITIZEN PRESIDENT,

WE have received the extract which the proviſory executive council have addreſſed to us of their deliberation of the 4th of the preſent month, by which the Citizen Genet, miniſter from the Republic to the United States of America, is authoriſed to make uſe of the ſums which the Congreſs may be able to pay, of the debt due by the United States to France, or thoſe which he may be able to procure on his own notes, payable by the caſhier of the National Treaſury, in purchaſing proviſions and warlike ſtores agreeably to the orders which ſhall be given him by the miniſters of the interior, of war, of the marine, and of foreign affairs.

To concur as far as is in our power, and according to the intentions of the executive council, in forwarding the meaſures pointed out in the deliberation, we have the honor to aſſure you, Citizen Preſident, that whatever ſum ſhall be ſent to us in the name of Congreſs, of the *acquittances* or *orders* furniſhed by the Citizen Genet, to the treaſurer of the United States, and indicating the department of the French miniſtry, for which he ſhall have iſſued them, we ſhall immediately adviſe the executive council thereof, in order that we may be enabled to credit the American Congreſs, on account of their debt, for their amount.

Should the reimburſements which Congreſs may make, prove inſufficient to anſwer the different purpoſes required by the miniſters of the Republic; and Citizen Genet, to fulfil his miſſion, be obliged to recur to his own notes, payable at two months ſight, upon Citizen Doyer, general caſhier of the National treaſury; we ſhall examine when preſented, and immediately refer them to the miniſter, to whoſe department they ſhall relate, in order that in the interval between their

examination and time of payment, the miniſters may have the proper and regular authorities expedited to authoriſe the payment.

As our functions are unconnected in a direct manner with the miniſters ſent by the Republic to the different governments, we conceive that this letter anſwers the intentions manifeſted by the executive council in article 7, of their deliberations, that we ſhould concur in the diſpoſitions contained therein. Authenticated copies of this letter, expedited in the name of the executive council to the miniſter Genet, will give him ſufficient aſſurances, for his miſſion, Citizen Preſident, of all the facility which can be derived from our concurrence. We are, with reſpect, &c.

(Signed) *By the Commiſſioners of the National Treaſury.*
LERMINA, GAUDIN, DEVAINE, DE LA FONTAINE, SAVELETE ſ. et DUTRAMBLAY.

Paris, 8 January, 1793, 2d year of the French Republic.

WE, the underſigned miniſters and members of the proviſory executive council of the French Republic, certify that the above are the ſignatures of the commiſſioners of the national treaſury of the republic; and that the letter under which they are ſigned, was written in conſequence of the miſſion given by us to Citizen Genet, Miniſter Plenipotentiary from the Republic to the Congreſs of the United States, to endeavour the reimburſement of the debt due from the United States to France, and the purchaſe of proviſions in the ſeveral markets of North America.

Done in the Proviſory Executive Council at Paris, the 17th of January, 1793, in the 2d year of the French Republic.

The members compoſing the Proviſory Executive Council.

(Signed) CLAVIERE, LE BRUN, PACHE, ROLAND, MONGE, GARAT.

I hereby certify, that the aforegoing is a true copy from the original in my poſſeſſion.

The Miniſter Plenipotentiary from the French Republic, to the United States of America.

(Copy) GENET.

TRANSLATION.

PHILADELPHIA, May 23d, 1793, 2d year of the Republic.

The Citizen Genet, Miniſter plenipotentiary of the French Republic, to Mr. Jefferſon, Secretary of ſtate for the United States.

SIR,

SINGLE, againſt innumerable hordes of tyrants and ſlaves, who menace her riſing liberty, the French nation would have a right to reclaim the obligations impoſed on the United States, by the treaties ſhe has contracted with them, and which ſhe has cemented with her blood; but ſtrong in the greatneſs of her means, and of the power of her principles, not leſs redoubtable to her enemies, than the victorious arm which ſhe oppoſes to their rage, ſhe comes, in the very time when the emiſſaries of our common enemies are making uſe-

leſs efforts to neutralize the gratitude,—to damp the zeal,—to weaken or cloud the view of your fellow-citizens;—ſhe comes, I ſay,—that generous nation—that faithful friend, to labour ſtill to increaſe the proſperity, and add to the happineſs which ſhe is pleaſed to ſee them enjoy.

The obſtacles raiſed with intentions hoſtile to liberty, by the perfidious miniſters of deſpotiſm;—the obſtacles whoſe object was to ſtop the rapid progreſs of the commerce of the Americans, and the extenſion of their principles, exiſt no more. The French Republic, ſeeing in them but brothers, has opened to them by the decrees now encloſed, all her ports in the two worlds;—has granted them all the favors which her own citizens enjoy in her vaſt poſſeſſions;—has invited them to participate the benefits of her navigation, in granting to their veſſels the ſame rights as her own;—and has charged me to propoſe to your government, to eſtabliſh in a true family compact, that is, in a national compact, the liberal and fraternal baſis, on which ſhe wiſhes to ſee raiſed the commercial and political ſyſtem of two people, all whoſe intereſts are blended.

I am inveſted, ſir, with the powers neceſſary to undertake this important negociation, of which the ſad annals of humanity, offer no example before the brilliant era at length opening on it.

GENET.

TRANSLATION.

DECREE *of the* NATIONAL CONVENTION *of 19th February, 1793, 2d Year of the French Republic, relative to produce exported and imported in American veſſels, to the Colonies or to France.*

THE National Convention, after having heard the report of the committee of general defence—Decrees as follows:

Art 1. That all the ports of the French Colonies be open to veſſels of the United States of America.

Art 2. That all produce exported or imported in American veſſels on going out or entering in the Colonies or in France, pay the ſame duties as that borne by French veſſels.

Art 3. That the executive council be authorized to take proper meaſures that the ſtates with whom the Republic are at war, do not reap any benefit from the advantages granted to friendly powers.

Art 4. That the executive power negociate with the Congreſs of the United States, to obtain in favour of the French merchants, a like reduction of the duties granted by the preſent law to American merchants, and thereby more cloſely cement the benevolent ties which unite the two nations.

Art. 5. That the law of the 20th of Auguſt, 1790, be ſuſpended; and that veſſels laden with merchandize of the Eaſt-Indies, may be at liberty to land in any port of the Republic, during the war; and that thoſe which ſhall be laden with the productions of the Iſle of France, and of Bourbon, ſhall henceforward enjoy the ſame privilege.

The National Convention has ſuſpended the law of the 15th of May,

1791, which inhibited the Americans from introducing, ſelling, and arming their veſſels in France, and from enjoying all the advantages allowed to thoſe built in the ſhip-yards of the Republic.

Certified to be conformable to the decree of the National Convention of France.

The Miniſter Plenipotentiary of the French Republic.
GENET.

PHILADELPHIA, May 15th, 1793.

Mr. Jefferſon, Secretary of State, to M. Ternant, Miniſter Plenipotentiary of France.

SIR,

HAVING received ſeveral memorials from the Britiſh miniſter, on ſubjects ariſing out of the preſent war, I take the liberty of encloſing them to you, and ſhall add an explanation of the determinations of the government thereon. Theſe will ſerve to vindicate the principles on which it is meant to proceed, and which are to be applied with impartiality to the proceedings of both parties. They will form, therefore, as far as they go, a rule of action for them, and for us.

In one of theſe memorials, it is ſtated, that arms and military accoutrements are now buying up by a French agent in this country, with an intent to export them to France. We have anſwered that our citizens have always been free to make, vend, and export arms: that it is the conſtant occupation and livelihood of ſome of them. To ſuppreſs their callings, the only means perhaps of their ſubſiſtence, becauſe a war exiſts in foreign and diſtant countries, in which we have no concern, would ſcarcely be expected. It would be hard in principle and impoſſible in practice. The law of nations, therefore, reſpecting the rights of thoſe at peace, has not required from them ſuch an internal derangement in their occupations. It is ſatisfied with the external penalty pronounced in the Preſident's proclamation, that of confiſcation of ſuch portion of theſe arms as ſhall fall into the hands of any of the belligerent powers, on their way to the ports of their enemies. To this penalty our citizens are warned that they will be abandoned, and that the purchaſe of arms here, may work no inequality between the parties at war, the liberty to make them will be enjoyed equally by both.

Another of theſe memorials, complains that the conſul of France, at Charleſton, has condemned as legal prize, a Britiſh veſſel captured by a French frigate, obſerving that this judicial act is not warranted by the uſage of nations, nor by the ſtipulations exiſting between the United States and France. It is true that it is not ſo warranted, nor yet by any law of the land, and that therefore it is a mere nullity; can be reſpected in no court; make no part in the title to the veſſel, nor give to the purchaſer any other ſecurity than what he would have had without it; that conſequently it ought to give no concern to any perſon intereſted in the fate of the veſſel. While we have conſidered

this to be the proper anſwer, as between us and Great Britain; between us and France, it is an act to which we cannot but be attentive. An aſſumption of juriſdiction by an officer of a foreign power, in caſes which have not been permitted by the nation within whoſe limits it has been exerciſed, could not be deemed an act of indifference. We have not full evidence that the caſe has happened; but on ſuch an hypotheſis, while we ſhould be diſpoſed to view it in this inſtance, as an error in judgment in the particular officer, we ſhould rely, ſir, that you would interpoſe efficaciouſly to prevent a repetition of the error by him, or any other of the conſuls of your nation.

Our information is not perfect on the ſubject matter of another of theſe memorials, which ſtates, that a veſſel has been fitted out at Charleſton, manned there, and partly too with citizens of the United States, received a commiſſion there to cruize againſt nations at peace with us, and has taken and ſent a Britiſh veſſel into this port. Without taking all theſe facts for granted, we have not heſitated to expreſs our higheſt diſapprobation of the conduct of any of our citizens, who may perſonally engage in committing hoſtilities at ſea, againſt any of the nations, parties to the preſent war; to declare that if the caſe has happened, or that ſhould it happen, we will exert all the means with which the laws and conſtitution have armed us, to diſcover ſuch offenders and bring them to condign puniſhment. And that the like conduct ſhall be obſerved, ſhould the like enterpriſes be attempted againſt your nation, I am authoriſed to give you the moſt unreſerved aſſurances. Our friendſhip for all the parties at war; our deſire to purſue ourſelves the path of peace, as the only one leading ſurely to proſperity, and our wiſh to preſerve the morals of our citizens from being vitiated by courſes of lawleſs plunder and murder, are a ſecurity that our proceedings in this reſpect, will be with good faith, fervor, and vigilance. The arming of men and veſſels within our territory, and without conſent or conſultation on our part, to wage war on nations with which we are in peace; are acts, which we will not gratuitouſly impute to the public authority of France: they are ſtated indeed with poſitiveneſs in one of the memorials; but our unwillingneſs to believe that the French nation could be wanting in reſpect or friendſhip to us on any occaſion, ſuſpends our aſſent to, and concluſions upon theſe ſtatements, till further evidence. There is ſtill a further point in this memorial, to which no anſwer has yet been given.

The capture of the Britiſh ſhip Grange, by the French frigate, l'Embuſcade, within the Delaware, has been the ſubject of a former letter to you. On full and mature conſideration, the government deems the capture to have been unqueſtionably within its juriſdiction, and that according to the rules of neutrality, and the protection it owes to all perſons while within its limits, it is bound to ſee that the crew be liberated, and the veſſel and cargo reſtored to their former owners. The Attorney-General of the United States, has made a ſtatement of the grounds of this determination, a copy of which I have the honour to encloſe you. I am in conſequence charged by the

Preſident of the United States, to expreſs to you his expectation, and at the ſame time, his confidence that you will be pleaſed to take immediate and effectual meaſures for having the ſhip Grange and her cargo, reſtored to the Britiſh owners, and the perſons taken on board her, ſet at liberty.

I am perſuaded, ſir, you will be ſenſible on mature conſideration, that in forming theſe determinations, the government of the United States, has liſtened to nothing but the dictates of immutable juſtice: they conſider the rigorous exerciſe of that virtue, as the ſureſt means of preſerving perfect harmony between the United States and the powers at war. I have the honor to be,

With ſentiments of great reſpect,
Sir,
Your moſt obedient and
moſt humble ſervant,
TH: JEFFERSON.

The Attorney-General of the United States, has the honor of ſubmitting to the Secretary of State, his opinion concerning the ſeizure of the ſhip Grange.

THE ESSENTIAL FACTS ARE,

THAT the river Delaware takes its riſe within the limits of the United States.

That the whole of its deſcent to the Atlantic Ocean, is covered on each ſide by the territory of the United States:

That from tide-water, to the diſtance of about ſixty miles from the Atlantic Ocean, it is called the *river* Delaware:

That at this diſtance from the ſea, it widens and aſſumes the name of the *Bay* of Delaware, which it retains to the mouth:

That its mouth is formed by the capes Henlopen and May; the former belonging to the ſtate of Delaware in property and juriſdiction; the latter to the ſtate of New-Jerſey.

That the Delaware does not lead from the ſea to the dominions of any foreign nation:

That from the eſtabliſhment of the Britiſh provinces on the banks of the Delaware to the American revolution, it was deemed the peculiar navigation of the Britiſh empire:

That by the treaty of Paris on the 3d day of September, 1783, his Britannic Majeſty relinquiſhed, with the privity of France, the ſovereignty of thoſe provinces, as well as of the other provinces and colonies:

And that the Grange was arreſted *in* the Delaware, *within the capes*, before ſhe had reached the ſea, after her departure from the port of Philadelphia.

It is a principle, firm in reaſon, ſupported by the civilians, and tacitly approved in the document, tranſmitted by the French miniſter, that to attack an enemy in a neutral territory is abſolutely unlawful.

Hence the inquiry is reduced to this ſimple form, whether the place of ſeizure was in the territory of the United States?

From a queſtion originating under the foregoing circumſtances, is obviouſly and properly excluded, every conſideration of a dominion over the *ſea*. The ſolidity of our neutral right, does not depend, in this caſe, on any of the various diſtances, claimed on that element, by different nations, poſſeſſing the neighbouring ſhore. But if it did, the field would probably be found more extenſive, and more favourable to our demand, than is ſuppoſed by the document above referred to. For the *neceſſary* or *natural* law of nations, unchanged as is is, in this inſtance, by any compact or other obligation of the United States, will perhaps, when combined with the treaty of Paris in 1783, juſtify us in attaching to our coaſts an extent into the ſea, beyond the reach of cannon ſhot.

In like manner is excluded every conſideration, how far the ſpot of ſeizure was capable of being defended by the United States. For, although it will not be conceded that this could not be done; yet will it rather appear, that the mutual rights of the ſtates of New-Jerſey and Delaware, up to the middle of the river, ſupercede the neceſſity of ſuch an inveſtigation.

No. The corner ſtone of our claim is, that the United States are proprietors of the lands on both ſides of the Delaware, from its head to its entrance into the ſea.

The high Ocean, *in general*, it is true, is unſuſceptible of becoming property. It is a gift of nature, manifeſtly deſtined for the uſe of all mankind—inexhauſtible in its benefits—not admitting metes and bounds. But rivers may be appropriated; becauſe the reverſe is their ſituation. Were they open to all the world, they would prove the inlets of perpetual diſturbance and diſcord; would ſoon be rendered barren by the number of thoſe, who would ſhare in their products; and moreover may be defined.

"A river, conſidered merely as ſuch, is the property of the people, through whoſe lands it flows, or of him under whoſe juriſdiction that people is." Grot. b. 2. c. 2. ſ. 12.

"Rivers might be held in property; though neither where they riſe, nor where they diſcharge themſelves be within our territory, but they join to both, or the ſea. It is ſufficient for us, that the larger part of water, that is, the ſides, is ſhut up in our banks, and that the river, in reſpect of our land, is itſelf ſmall and inſignificant." Grot. b. 2. c. 3. ſ. 7, and Barbegroe, in his note ſubjoins, that neither of thoſe is neceſſary.

"Rivers may be the property of whole ſtates." Puff. b. 3. c. 3. ſ. 4.

"To render a thing capable of being appropriated, it is not ſtrictly neceſſary, that we ſhould encloſe it, or be able to encloſe it within artificial bounds, or ſuch as are different from its own ſubſtance; it is ſufficient if the compaſs and extent of it can be any way determined. And therefore Grotius hath given himſelf a needleſs trouble, when, to prove rivers capable of property, he uſeth this argument, that although they

are bounded by the land at neither end, but united to the other rivers or the sea; yet it is enough, that the greater part of them, that is, their sides, are enclosed. Puff. b. 4. c. 5. s. 3.

"When a nation takes possession of a country in order to settle there, it possesses every thing included in it, as lands, lakes, rivers." &c. Vattel, b. 1. c. 22. s. 266.

To this list might be added Bynkershock and Selden. But the dissertation of the former, de dominio maris, cannot be quoted with advantage in detachment; and the authority of the latter *on this* head may, in the judgment of some, partake too much of affection for the hypothesis of mare clausum. As Selden, however, sinks in influence on this question, so must Grotius rise, who contended for the mare liberum; and his accurate commentator, Rutherforth, confirms his principles in the following passage: "A nation, by settling upon any tract of land, which at the time of such settlement had no other owner, acquires, in respect of all other nations, an exclusive right of full or absolute property, not only in the land, but in the waters likewise, that are included within the land, such as rivers, pools, creeks or bays. The absolute property of a nation, in what it has thus seized upon, is its right of territory." 2 Ruth. b. 2. c. 9. s. 6.

Congress too have acted on these ideas, when, in their collection of laws, they ascribe to a state the rivers wholly within that state.

It would seem, however, that the spot of seizure is attempted to be withdrawn from the protection of these respectable authorities, as being in the *Bay* of Delaware, instead of the *River* Delaware.

Who can seriously doubt the identity of the *River* and *Bay* of Delaware? How often are different portions of the same stream denominated differently? This is sometimes accidental; sometimes for no other purpose than to assist the intercourse between man and man, by easy distinctions of space. Are not this River and this Bay fed by the same springs from the land, and the same tides from the ocean? Are not both doubly flanked by the territory of the United States? Have any local laws at any time provided variable arrangements for the River and the Bay? Has not the jurisdiction of the contiguous states been exercised equally on both?

But suppose that the *River* was dried up, and the *Bay* alone remained, Grotius continues the argument of the 7th section, of the 3d chapter, of the 2d book above cited, in the following words:

"By this instance it seems to appear, that the property and dominion of the sea might belong to him, who is in possession of the lands on both sides, though it be open above, as a gulph, or above and below, as a streight; provided it is not so great a part of the sea, that, when compared with the lands on both sides, it cannot be supposed to be some part of them. And now, what is thus lawful to one king or people, may be also lawful to two or three, if they have a mind to take possession of a sea, thus enclosed within their lands; for 'tis in this manner, that a river, which separates two nations, has first been possessed by both, and then divided."

"The gulphs and channels, or arms of the ſea, are, according to the regular courſe, ſuppoſed to belong to the people, with whoſe lands they are encompaſſed." Puff. b. 4, c. 5. ſ. 8.

Valin, in b. 5. tit. 1, p. 685, of his commentary on the marine ordonnance of France, virtually acknowledges, that *particular* ſeas may be appropriated. After reviewing the conteſt between Grotius and Selden, he ſays, "S'il (Selden) s'en fût donc tenu là, ou plutôt, s'il eût diſtingué l'ocean des mers particuliers, et même dans l'ocean, l'etendue de mer, qui doit étre cenſeé appartenir aux ſouverains des côtes, qui en ſont baigneés, ſa victoire eût été complette."

Theſe remarks may be enforced by aſking, what nation can be injured in its rights, by the Delaware being appropriated to the United States? And to what degree may not the United States be injured, on the contrary ground? It communicates with no foreign dominion; no foreign nation has, ever before, exacted a community of right in it, as if it were a main ſea: Under the former and preſent governments, the excluſive juriſdiction has been aſſerted; by the very firſt collection law of the United States, paſſed in 1789, the county of Cape May, which includes Cape May itſelf, and all the waters thereof, theretofore within the juriſdiction of the ſtate of New-Jerſey, are comprehended in the diſtrict of Bridgetown; the whole of the ſtate of Delaware, reaching to Cape Henlopen, is made one diſtrict; nay, unleſs theſe poſitions can be maintained, the bay of Cheſapeake, which, in the ſame law, is ſo fully aſſumed to be within the United States, and which, for the length of the Virginia territory, is ſubject to the proceſs of ſeveral counties to any extent, will become a rendezvous to all the world, without any poſſible control from the United States. Nor will the evil ſtop here. It will require but another ſhort link in the proceſs of reaſoning, to diſappropriate the mouths of ſome of our moſt important rivers. If, as Vattel inclines to think in the 294th ſection of his firſt book, the Romans were free to appropriate the Mediterranean, merely becauſe they ſecured, by one ſingle ſtroke, the immenſe range of their coaſt; how much ſtronger muſt the vindication of the United Sates be, ſhould they adopt maxims for prohibiting foreigners from gaining, without permiſſion, acceſs into the heart of their country.

This inquiry might be enlarged by a minute diſcuſſion of the practice of foreign nations in ſuch circumſtances. But I paſs it by; becauſe the United States, in the commencement of their career, ought not to be precipitate in declaring their approbation of any uſages, (the preciſe facts concerning which we may not thoroughly underſtand) until thoſe uſages ſhall have grown into principles, and are incorporated into the law of nations; and becauſe no uſage has ever been accepted, which ſhakes the foregoing principles.

The concluſion then is, that the Grange has been ſeized on neutral ground. If this be admitted, the duty ariſing from the illegal act, is reſtitution.

EDM: RANDOLPH.

MAY 14, 1793

TRANSLATION.

PHILADELPHIA, May 27th, 1793.
The 2d year of the Republic of France.

Citizen Genet, Minister Plenipotentiary of the Republic of France, to Mr. Jefferson, Secretary of State of the United States.

SIR,

MY predeceſſor has delivered to me the letter which you wrote to him the 15th of this month, communicating to him ſundry memorials of the Britiſh miniſter, and the deciſions which the American government has taken on the complaints of this miniſter.

The firſt of theſe complaints which you report in your letter, Sir, is not founded in fact; I have nó knowledge of the purchaſe of the arms in queſtion, and at all events the reply you have made to Mr. Hammond would convince him of the nullity of his obſervations, if they had been dictated by good faith; but it is probable that this ſtep has no other object but to prepare, diplomatically, pretexts to the Engliſh ſhips of war to ſubject American veſſels even under the ſhadow of their modeſt neutrality, to arbitrary viſits and detentions.

The ſecond complaint of the envoy of George III. Sir, is founded on the ſale of the prizes ſent into the port of Charleſton, by the Embuſcade frigate, belonging to the Republic of France.

I ſhall call to my aid only facts and very plain reaſoning in replying to Mr. Hammond's repreſentations on this point.

The treaty of commerce of 1778, authoriſes excluſively all the veſſels of war, French or American, armed by the two ſtates or by individuals, to conduct freely, wherever they pleaſe the prizes they ſhall have made of their enemies, without being ſubjected either to admiralty or any other duties, without alſo the ſaid veſſels or the ſaid prizes, entering the ports of France or of America, being ſtopped or ſeized, or the officers of the places being permitted to take cognizance of the validity of the ſaid prizes.

This privilege is interdicted to the enemies of either of the two nations which ſhall be at war, the two contracting parties having expreſsly engaged not to permit any foreign privateer, having a commiſſion from a prince or power at war with one of the two nations, to arm their veſſels in the ports of one of the two parties, or to ſell there the prizes they ſhall have taken, or in any other manner to diſcharge the veſſels, merchandiſes, or any part of their cargoes. Theſe privileges which the two nations have reſerved to themſelves excluſively, theſe ſevere and clearly defined reſtrictions againſt their common enemies, evidently prove that in virtue of the treaties which I have cited, we alone have at preſent the right of bringing our prizes into the American ports, and of there doing with them as we pleaſe, as property on the validity of which the civil or judiciary officers of the United States have nothing to do, as long as the laws of the United States are not infringed. It is in order to acquire information on this important ſubject that the publicity of the ſale of prizes authoriſed by the conſular officers of the Republic, is neceſſary; and if in the fulfilment of this

duty prescribed by friendship, and our respect for the law of nations, the Consul of the French Republic at Charleston has made use of some formality or expression, from which it might be inferred that he arrogated to himself jurisdiction unceded by the treaties and laws of the United States; I shall take care, Sir, that this error be avoided for the future, and that all proceedings relative to the sale of our prizes, conformably to the spirit of the treaty, bear the stamp of a particular national transaction, and of the plain and real alienation of a property acquired by the laws of war, acknowledged to be legal by the officers of the French nation.

The third complaint made to your government, sir, by the English minister, is relative to the armaments which have taken place at Charleston, under the flag of the French Republic. The American government, sir, has given a new proof of its wisdom, and of its confidence in our sentiments, not blindly to admit the assertions of Mr. Hammond. In reply to this I shall still confine myself to facts. It is certain that several vessels have been armed at Charleston; that they have received from me commissions of the Republic, agreeable to the forms I have had the honour to communicate to you: and that these vessels, dispatched to sea with great celerity, have made many prizes, have condemned to inaction, by the terror which they have spread among the English, almost all the sailors and vessels of that nation, which were in the ports of the United States, and by their success have very sensibly raised the freight of American vessels; I grant that this must be displeasing to Mr. Hammond, to his court, and to his friends: but that is not the matter in question.

I ought, by a sincere exposition of my conduct, to put you in a capacity to judge whether I have encroached on the sovereignty of the American nation, its laws, and its principles of government.

The vessels armed at Charleston belong to French houses; they are commanded and manned by French citizens, or by Americans, who, at the moment they entered the service of France, in order to defend their brothers and their friends, knew only the treaties and the laws of the United States, no article of which imposes on them the painful injunction of abandoning us in the midst of the dangers which surround us.

It is then evident, Sir, that these armaments cannot be matter of offence in the citizens of the United States; and those who are on board of our vessels have renounced the immediate protection of their country, on taking part with us.

It is necessary, however, to examine whether the French houses of Charleston might arm the vessels which belonged to them. I submitted this question to the Governor of South-Carolina, before the delivery of the letters of marque to our privateers. I reminded him that liberty consisted in doing what the laws did not prohibit: that I believed no law existed which could deprive the French citizens in the ports of the United States, of the privilege of putting their vessels in a state of defence, of taking in time of war new commissions, and of serving

their country by cauſing them to cruiſe out of the United States, on the veſſels of their enemy.—Nor indeed were there any which gave to the government the right of ſubmitting the particular operations of merchants to a ſtate inquiſition; and that it appeared to me that it could neither authoriſe nor hinder the ſaid armaments. His opinion appeared to correſpond with mine, and our veſſels put to ſea in ſpite of all the intrigues which the partizans of England put into action to oppoſe it.

This is the truth, Sir; this is the conduct, I dare to call it reſpectful, which I have followed; and I know too well the equitable ſentiments of the federal government not to deliver myſelf to the pleaſing hope of ſeeing it *return* from the firſt impreſſions which the reports of the Miniſter of England appear to have made on it.

The laſt point which remains to be ſpoken of, Sir, is relative to the capture of the Engliſh ſhip Grange, by the Embuſcade, frigate.

The learned concluſions of the Attorney-General of the United States, and the deliberations of the American government, have been on this ſubject the rule of my conduct. I have cauſed the prize to be given up; and although of conſiderable value, my brave brethren, the ſeamen of the Embuſcade, have readily concurred in a meaſure, which I repreſented to them, as a proper mean to convince the American government, of our deference and of our friendſhip.

The French republicans, Sir, know the duties which nations owe to one another: enlightened on the rights of man, they have juſt ideas of the general laws of ſociety comprized under the common denomination of the *law of nations, (droit des gens)* informed with reſpect to the intereſts of their country, they know how to diſtinguiſh its enemies and its friends; and you may aſſure the American government, that collectively and individually, they will ſeize every occaſion of ſhowing to the ſovereign people of the United States their reſpect for their laws, and their ſincere deſire to maintain with them the moſt perfect harmony.

GENET.

PHILADELPHIA, 5th *June*, 1793.

Mr. Jefferſon, Secretary of State, to Mr. Genet, Miniſter Plenipotentiary of France.

SIR,

IN my letter of May 15th, to M. de Ternant, your predeceſſor, after ſtating the anſwers which had been given to the ſeveral memorials of the Britiſh miniſter, of May 8th, it was obſerved that a part remained ſtill unanſwered, of that which reſpected the fitting out armed veſſels in Charleſton, to cruiſe againſt nations with whom we were at peace.

In a converſation which I had afterwards the honour of holding with you, I obſerved that one of thoſe armed veſſels, the Citoyen Genet, had come into this port with a prize: that the Preſident had thereupon taken the caſe into further conſideration; and after mature

conſultation and deliberation, was of opinion, that the arming and equipping veſſels in the ports of the United States, to cruiſe againſt nations with whom they are at peace, was incompatible with the territorial ſovereignty of the United States; that it made them inſtrumental to the annoyance of thoſe nations, and thereby tended to compromit their peace; and that he thought it neceſſary, as an evidence of good faith to them, as well as a proper reparation to the ſovereignty of the country, that the armed veſſels of this deſcription, ſhould depart from the ports of the United States.

The letter of the 27th inſtant, with which you have honoured me, has been laid before the preſident, and that part of it, which contains your obſervations on this ſubject, has been particularly attended to. The reſpect due to whatever comes from you, friendſhip for the French nation, and juſtice to all, have induced him to re-examine the ſubject, and particularly to give to your repreſentations thereon, the conſideration they deſervedly claim. After fully weighing again, however, all the principles and circumſtances of the caſe, the reſult appears ſtill to be, that it is the *right* of every nation to prohibit acts of ſovereignty from being exerciſed by any other within its limits; and the *duty* of a neutral nation to prohibit ſuch as would injure one of the warring powers; that the granting military commiſſions, within the United States by any other authority than their own, is an infringement on their ſovereignty, and particularly ſo, when granted to their own citizens, to lead them to commit acts contrary to the duties they owe their own country: that the departure of veſſels, thus illegally equipped, from the ports of the United States, will be but an acknowledgment of reſpect, analogous to the breach of it, while it is neceſſary on their part as an evidence of their faithful neutrality. On theſe conſiderations, ſir, the Preſident thinks that the United States owe it to themſelves, and to the nations in their friendſhip, to expect this act of reparation on the part of veſſels, marked in their very equipment with offence to the laws of the land, of which the law of nations makes an integral part.

The expreſſions of every friendly ſentiment, which we have already had the ſatisfaction of receiving from you, leave no room to doubt that the concluſion of the Preſident, being thus made known to you, theſe veſſels will be permitted to give no further umbrage, by their preſence in the ports of the United States.

I have the honour to be,
With ſentiments of perfect eſteem and reſpect,
Sir,
Your moſt obedient, and
moſt humble ſervant,
TH: JEFFERSON.

TRANSLATION.

PHILADELPHIA, 8 *June*, 1793.
2d year of the French Republic.

The Miniſter of the Republic of France to the Secretary of State of the United States.

SIR,

I HAVE ſeen with pain, by your letter of the 5th of this month, that the Preſident of the United States perſiſts in thinking that a nation at war had not the right of giving commiſſions of war to thoſe of its veſſels which may be in the ports of a neutral nation; this being, in his opinion, an act of ſovereignty.

I confeſs to you, Sir, that this opinion appears to me contrary to the principles of natural right; to the uſages of nations; to the connexions which unite us; and even to the Preſident's proclamation.

The right of arming, Sir, for the purpoſe of its defence, and repelling unjuſt aggreſſions, in my opinion, may be exerciſed by a nation at war, in a neutral ſtate; unleſs by treaty, or particular laws of this ſtate, that right be confined to a ſingle nation, friend or ally, and expreſsly interdicted to others. This is exactly the caſe in which we are. The United States, friends of the French, their allies and guarantees of their poſſeſſions in America, have permitted them to enter armed, and remain in their ports, to bring there their prizes, to repair in them, to equip in them, whilſt they have expreſsly refuſed this privilege to their enemies. The intention of the United States has been to facilitate to us the means of protecting, efficaciouſly, our commerce, and of defending our poſſeſſions in America, ſo uſeful to our mutual proſperity; and as long as the ſtates, aſſembled in Congreſs, ſhall not have determined that this ſolemn engagement ſhould not be performed, no one has a right to ſhackle our operations, and to annul their effect, by hindering thoſe of our marines, who may be in the American ports, to take advantage of the commiſſions which the French government has charged me to give them, authoriſing them to defend themſelves, and fulfil, if they find an opportunity, all the duties of citizens againſt the enemies of the ſtate. Beſides, Sir, at all times, like commiſſions, during a war, have been delivered to our veſſels. The officers of the marine tranſmit them to them, in France, and the conſuls in foreign countries; and it is in virtue of this uſage, which no power has ever thought of regarding as an act of ſovereignty, that the executive council has ſent here ſuch commiſſions.

However, Sir, always animated with the deſire of maintaining the good harmony which ſo happily ſubſiſts between our two countries, I have inſtructed the conſuls not to grant *letters*, but to the captains, who ſhall obligate themſelves, under oath and ſecurity, to reſpect the territory of the United States, and the political opinions of their Preſident, until the repreſentatives of their ſovereign ſhall have confirmed or rejected them. This is all the American government can expect from our deference; every thing that paſſes out of the waters of the United States, not coming within their cognizance.

It results from this note, Sir, that the commissions transmitted in virtue of the orders of the executive council of the Republic of France, to the French vessels in the ports of the United States, are merely an authority to arm themselves, founded upon the natural right and constant usage of France; that these commissions have been expedited at all times, in the like circumstances; that their distribution cannot be considered but as an act of consular administration, and not of sovereignty; and that every obstruction by the government of the United States, to the arming of French vessels, must be an attempt on the rights of man, upon which repose the independence and laws of the United States; a violation of the ties which unite the people of France and of America; and even a manifest contradiction of the system of neutrality of the President: for, in fact, if our merchant vessels, or others, are not allowed to arm themselves, when the French alone are resisting the league of all the tyrants against the liberty of the people, they will be exposed to inevitable ruin in going out of the ports of the United States, which is certainly not the intention of the people of America. Their fraternal voice has resounded from every quarter around me, and their accents are not equivocal—they are pure as the hearts of those by whom they are expressed, and the more they have touched my sensibility, the more they must interest in the happiness of America, the nation I represent;—the more I wish, Sir, that the federal government should observe, as far as in their power, the public engagements contracted by both nations; and that by this generous and prudent conduct, they will give at least to the world, the example of a true neutrality, which does not consist in the cowardly abandonment of their friends in the moment when danger menaces them, but in adhering strictly, if they can do no better, to the obligations they have contracted with them. It is by such proceedings, that they will render themselves respectable to all the powers; that they will preserve their friends, and deserve to augment their number.

GENET.

TRANSLATION.

PHILADELPHIA, 1st *June*, 1793.
2d year of the Republic of France.

The Citizen Genet, Minister plenipotentiary of the Republic of France, with the United States, to Mr. Jefferson, secretary of state of the United States.

SIR,

I HAVE this moment been informed, that two officers in the service of the Republic of France, Citizen Gideon Henfield and John Singletary, have been arrested on board the privateer of the French Republic, the Citizen Genet, and conducted to prison. The crime laid to their charge—the crime which my mind cannot conceive, and which my pen almost refuses to state, is the serving of France, and defending with her children the common glorious cause of liberty.

Being ignorant of any positive law, or treaty, which deprives Americans of this privilege, and authorises officers of police arbitrarily to take mariners, in the service of France, from on board their vessels, I call upon your intervention, sir, and that of the President of the United States, in order to obtain the immediate releasement of the above-mentioned officers, who have acquired by the sentiments animating them, and by the act of their engagement, anterior to every act to the contrary, the right of French citizens, if they have lost that of American citizens. I renew at the same time, sir, the requisition which I made in favour of another French officer, detained for the same cause, and for the same object.

GENET.

PHILADELPHIA, *June* 1st, 1793.

Mr. Jefferson, Secretary of state, to Mr. Genet, Minister plenipotentiary of France.

SIR,

I HAVE to acknowledge the receipt of your note of the 27th of May on the subject of Gideon Henfield, a citizen of the United States, engaged on board an armed vessel in the service of France. It has been laid before the President, and referred to the Attorney-General of the United States, for his opinion on the matter of law, and I have now the honour of enclosing you a copy of that opinion. Mr. Henfield appears to be in the custody of the civil magistrate, over whose proceedings the executive has no controul. The act with which he is charged, will be examined by a jury of his countrymen, in the presence of judges of learning and integrity; and if it is not contrary to the laws of the land, no doubt need be entertained that his case will issue accordingly. The forms of the law involve certain necessary delays, of which however he will assuredly experience none but what are necessary.

I have the honor to be,
With sentiments of perfect esteem and respect,
Sir,
Your most obedient, and
most humble servant,
TH: JEFFERSON.

P. S. *After writing the above, I was honored with your note on the subject of Singletary, on which it is in my power to say nothing more than on that of Henfield.*

The Attorney General of the United States has the honor of submitting to the Secretary of state, the following opinion on the case of Gideon Henfield, as represented by the Minister of France.

1st. IT may well be doubted how far the Minister of France has a right to interfere. Henfield is a citizen of the United States, and it is unusual, at least, that a foreign power should interfere in a question whether, as a citizen, a man has been guilty of a crime? Nor

can an authority be derived from Henfield being under the protection of the French Republic; becauſe being ſtill a citizen, he is amenable to the laws, which operate on citizens, and the very act, by which he is ſaid to have been taken under ſuch protection, is a violation of the ſovereignty of the United States. If he be innocent, he will be ſafe in the hands of his countrymen: if guilty, the reſpect due by one nation to the decrees of another, demands that they be acquieſced in.

2d. But Henfield is puniſhable, becauſe treaties are the ſupreme law of the land; and by treaties with three of the powers at war with France, it is ſtipulated, that there ſhall be a peace between their ſubjects and the citizens of the United States.

3d. He is indictable at the common law, becauſe his conduct comes within the deſcription of diſturbing the peace of the United States.

May 30, 1793. EDM: RANDOLPH.

TRANSLATION.

PHILADELPHIA, 14th *June*, 1793.
2d year of the Republic.

The Citizen Genet, Miniſter of the Republic of France, to Mr. Jefferſon, ſecretary of ſtate of the United States.

SIR,

YOU will ſee by the papers hereto annexed, that in contempt of the treaties which unite the French and Americans; that in contempt of the law of nations, civil and judiciary officers of the United States, have permitted themſelves to ſtop at Philadelphia the ſale of veſſels taken by an armed French Galliot, and at New-York, have oppoſed the ſailing of a French veſſel, commiſſioned by the executive council of the Republic of France. I requeſt you, ſir, to inform the Preſident of the United States, of theſe facts; to let him know that they have uſed his name in committing thoſe infactions of the laws and treaties of the United States; and engage him to develope in the preſent circumſtances, all the authority which the people of the United States have confided to him, to inforce the execution of the laws and treaties.

Not doubting, ſir, the purity of the Preſident's ſentiments, I hope to obtain immediately from the aid of his good offices and energy, reſtitution, with damages and intereſt, of the French prizes arreſted and ſeized at Philadelphia, by an incompetent judge, under an order which I ought to believe not genuine; and the like reſtitution, with damages and intereſt, of the veſſels ſtopped and ſeized at New-York.

It is through the intervention of the public miniſters, that affairs, of the nature which produce my preſent complaints and reclamations, ought to be treated. As the repreſentative of a people, generous and confident in their friends, I have already given proofs of the ſentiments with which they are animated, in cauſing to be reſtored,

without examination, on the requiſition of the federal government, the Engliſh ſhip Grange, taken by a veſſel of the Republic. I ſhall in all my conduct ſhow an equal deference: but at the ſame time, ſir, I ſhould expect from your government all the ſupport which I at preſent ſtand in need of, to defend, in the boſom of the United States, the intereſts, the rights, and the dignity of the French nation, which perſons on whom time will do us juſtice, are labouring ſecretly to miſrepreſent.

GENET.

TRANSLATION.

THIS day, the 7th June, 1793, in the 2d year of the Republic of France, before us Francis Dupont, conſul of the ſaid Republic, at Philadelphia, appeared the citizen Pierre Barriere, agent ad hoc of the ſhip *William*, and of the brigantine Active, taken by the galliot the Citizen Genet, captain Johanen, who has declared, that this day, at 11 o'clock, A. M. being occupied in the ſale of the cargo of the ſhip *William*, a deputy marſhal of the court of admiralty of the United States for the diſtrict of Pennſylvania, preſented himſelf to him, where he was making the ſaid ſales, on *Warder's* wharf, pretending that the ſaid ſhip *William*, and her cargo, were ſeized by the ſaid court of admiralty, wiſhing, in conſequence, to ſtop the ſale, which was nevertheleſs continued, the appearer having conceived that the admiralty could not, in any manner whatever, meddle in this buſineſs, agreeably to the 17th article of the treaty of commerce between France and the United States. Notwithſtanding, to the great prejudice of the intereſted in the ſales, the ſaid deputy marſhal of the admiralty diſcouraged the bidders, and even ſuſpended their bidding, leading them to believe that the ſale of the ſaid veſſels was not valid; whence it reſulted that they ſold below their value. However, the ſale of the cargo being made, the ſaid agent proceeded to that of the brigantine; but as ſoon as he commenced, the ſaid deputy marſhal again forbid the continuance, which lead ſeveral perſons preſent into an error, ſuppoſing that the ſeizure extended to the brig *Active*, as well as the ſhip *William*; whence it reſulted, that the ſaid brigantine did not ſell for more than a third of her real value, having been eſtimated worth £.600. The appearer, having afterwards proceeded to the ſale of the ſhip *William*, the ſaid deputy marſhal again, in the name of the aforeſaid court of admiralty, forbid it; whence has alſo reſulted a conſiderable loſs to the intereſted in the ſaid prize, which was ſtruck off at only £.500, which does not amount to one fourth of her value.—In conſequence of which, the ſaid appearer proteſts for all damages and intereſts accrued, and to accrue, againſt the ſaid court of admiralty—thoſe who have ſet on foot this proſecution—and generally againſt all thoſe whom it may concern, being therein fully juſtified by the tenor of the treaties:—Of all which the ſaid appearer has requeſted of us an act, and has ſigned with us, the day and the year above written.

FROIS. DUPONT.

PIERRE BARRIERE.

Compared by us, Chancellor of the Conſulate of the Republic of France, with the original depoſited in the Chancery, of the 8 June, 1793, 2d year of the French Republic.

J. Bre. LEMAIRE.

We, Conſul of the Republic of France, at Philadelphia, certify and atteſt, to whom it may concern, that citizen J. Bre. Lemaire, who has ſigned the above extract, is our Chancellor, to whoſe ſignature faith ſhould be given, as well in as out of judgment.

In teſtimony whereof, we have ſigned the preſent, and have cauſed to be affixed thereto the ſeal of the Conſulate at Philadelphia, L. S. the 8 June, 1793, 2d year of the Republic of France.

Frois. DUPONT.

New-York, 9th *June*, 1793.
2d year of the French Republic.

Sir,

I HAVE juſt been informed, that laſt night a French veſſel, armed for war, and ready to hoiſt ſail, has been arreſted by authority, and that even the captain has not been permitted to go on board. This ſtrange uſe of public force, againſt the citizens of a friendly nation, who aſſemble here to go and defend their brethren, is a ſignal violation of the laws of neutrality, which I cannot impute but to a miſconception, which your attention, and your equity, will not fail to rectify, as ſoon as you ſhall be informed of it.

I require, ſir, the authority with which you are clothed, to cauſe to be rendered to Frenchmen, and allies, and I muſt add to freemen, of whatever nation they may be, the liberty of flying to the ſuccour of their country. It is not in a country where Frenchmen have ſpilt their blood, in the cauſe of humanity, that they ought to find in the laws obſtacles to their following yet again the moſt pleaſing of their propenſities, and to fulfil the moſt ſacred of their duties.

HAUTERIVE.

Conſul of the French Republic, New-York.

To the Governor of the ſtate of New-York.

Conſulate of
New-York.

WE Alexander Hauterive, conſul of the Republic of France, to the United States, at New-York, certify, that in conſequence of a requiſition made by us to the mayor of New-York, and to the Governor of the ſtate of the ſame name, dated 9th June current, to obtain a replevy of the detention made by authority in this port, of a French veſſel called the Republican, belonging to Louis Alexis Hochquet Caritat, and commanded by the Citizen Orſet; the Governor of the ſaid ſtate replied to us by a letter under his ſignature, that it was in conformity to the injunction of the Preſident of the United States, that he had ordered a detachment of militia of this

State to detain the ſaid veſſel, until the Preſident of the United States ſhould be informed of the circumſtances of the facts. Upon which we have delivered to him an act certified and ſigned by us.

Done at New-York, the 10th June 1793.
2d year of the Republic of France. HAUTERIVE.
Conſul of the Republic of France at New-York.

PHILADELPHIA, *June 17th*, 1793.

Mr. Jefferſon, Secretary of State, to Mr. Genet, Miniſter Plenipotentiary of France.

SIR,

I SHALL now have the honor of anſwering your letter of the 8th inſtant, and ſo much of that of the 14th, (both of which have been laid before the Preſident) as relates to a veſſel armed in the port of New-York, and about to depart from thence, but ſtopped by order of the government; and here I beg leave to premiſe, that the caſe ſuppoſed in your letter, of a veſſel arming merely for her own defence, and to repel unjuſt aggreſſions, is not that in queſtion, nor that on which I mean to anſwer; becauſe, not having yet happened, as far as is known to the government, I have no inſtructions on the ſubject. The caſe in queſtion, is that of a veſſel armed, equipped, and manned, in a port of the United States, for the purpoſe of committing hoſtilities on nations at peace with the United States.

As ſoon as it was perceived, that ſuch enterprizes would be attempted, orders to prevent them, were diſpatched to all the ſtates and ports of the union. In conſequence of theſe, the governor of New-York, receiving information that a ſloop, heretofore called the Polly, now the Republican, was fitting out, arming and manning, in the port of New-York, for the expreſs and ſole purpoſe of cruiſing againſt certain nations with whom we are at peace, that ſhe had taken her guns and ammunition aboard, and was on the point of departure, ſeized the veſſel. That the governor was not miſtaken in the previous indications of her object, appears by the ſubſequent avowal of the citizen Hauterive, conſul of France at that port, who, in a letter to the governor, reclaims her, as * "Un vaiſſeau armé en guerre et pret à mettre à la voille," and deſcribes her object in theſe expreſſions, † "Cet uſage étrange de la force publique, contre les citoyens d'une nation amie qui ſe reuniſſent ici *pour aller defendre leurs freres*," and again, ‡ "Je requiers, Monſieur, l'autorité dont vous etes revetu, pour faire rendre à des alliés, &c. la liberté *de voler au ſecours de leur*

Tranſlation of paſſages in letter to MR. GENET, 17th *June*, 1793.

* "*A veſſel armed for war, and ready to put to ſea.*"

† "*This ſtrange uſe of public force againſt the citizens of a friendly nation who are united here, in order* to go in defence of their brothers."

‡ "*I require, ſir, the authority with which you are veſted, to cauſe to be rendered to Frenchmen, to allies, &c. the liberty* of flying to the ſuccour of their country."

patrie." This tranſaction being reported to the Preſident, orders were immediately ſent to deliver over the veſſel, and the perſons concerned in the enterprize, to the tribunals of the country; that if the act was of thoſe forbidden by the law, it might be puniſhed; if it was not forbidden, it might be ſo declared, and all perſons apprized of what they might or might not do.

This we have reaſon to believe is the true ſtate of the caſe, and it is a repetition of that which was the ſubject of my letter of the 5th inſtant, which animadverted not merely on the ſingle fact of the granting commiſſions of war, by one nation within the territory of another; but on the aggregate of the facts; for it ſtates the opinion of the Preſident to be, that "The arming and equipping veſſels in the ports of the United States, to cruiſe againſt nations with whom they are at peace, was incompatible with the ſovereignty of the United States; that it made them inſtrumental to the annoyance of thoſe nations, and thereby tended to commit their peace."—And this opinion is ſtill conceived to be not contrary to the principles of natural law; the uſage of nations; the engagements which unite the two people; nor the proclamation of the Preſident, as you ſeem to think.

Surely not a ſyllable can be found in the laſt mentioned inſtrument, permitting the preparation of hoſtilities in the ports of the United States. Its object was to enjoin on our citizens "a friendly conduct towards all the belligerent powers;" but a preparation of hoſtilities, is the reverſe of this.

None of the engagements in our treaties, ſtipulate this permiſſion. The XVII article of that of commerce, permits the armed veſſels of either party to enter the ports of the other, and to depart with their prizes freely: but the entry of an armed veſſel into a port, is one act; the equipping a veſſel in that port, arming her, manning her, is a different one, and not engaged by any article of the treaty.

You think, Sir, that this opinion is alſo contrary to the law of nature, and uſage of nations. We are of opinion it is dictated by that law and uſage; and this had been very maturely enquired into before it was adopted as a principle of conduct. But we will not aſſume the excluſive right of ſaying what that law and uſage is. Let us appeal to enlightened and diſintereſted judges. None is more ſo than Vattel. He ſays, l. 3, ſ. 104, § "Tant qu'un peuple neutre veut jouir ſurement de cet état il doit montrer en toutes choſes une exacte impartialité entre

§ *As long as a neutral nation wiſhes to enjoy this ſituation with certainty, it ought to ſhow in every thing, an exact impartiality, between thoſe who are at war. For if it favour the one to the prejudice of the other, it cannot complain when that other ſhall treat it as an adherent and aſſociate of its enemy. Its neutrality would be a fraudulent one, of which none would be the dupe. Let us ſee then wherein conſiſts that impartiality which a neutral people ought to obſerve.*

It regards war only, and comprehends two things. 1ſt. To give no ſuccour when not obliged thereto; not to furniſh freely, either troops, arms, ammunition, or any thing which directly ſerves for war. I ſay, to give no

ceux qui ſe font la guerre. Car s'il favoriſe l'un au prejudice de l'autre il ne pourra pas ſe plaindre, quand celui-ci le traitera comme adhérent et aſſocié de ſon ennemi. Sa neutralité ſeroit une neutralité frauduleuſe, dont perſonne ne veut être la dupe.—Voyons donc en quoi conſiſte cette impartialité qu'un peuple neutre doit garder.

Elle ſe raporte uniquement à la guerre, & comprend deux choſes. 1, Ne point donner de ſecours quand on n'y eſt pas obligé ; ne fournir librement ni troupes ni armes, ni munitions, ni rien de ſe qui ſert directement à la guerre. Je dis *ne point donner de ſecours*, et non pas *en donner egalement ;* car il ſeroit abſurde qu'un etat ſecourut en même tems deux ennemis. Et puis il ſeroit impoſſible de la faire avec egalité, les mêmes choſes, le même nombre de troupes, la même quantité d'armes de munitions, &c. fournies en des circonſtanſteces differentes ; ne forment plus des ſucours equivalens, &c." If the neutral power may not, conſiſtent with its neutrality, furniſh men to either party, for their aid in war, as little can either enrol them in the neutral territory, by the law of nations. Wolfe, ſ. 1174, ſays ‖ " Puiſque le droit de lever des ſoldats eſt un droit de majeſté qui ne peut être violé par une nation etrangere, il n'eſt pas permis de lever des ſoldats ſur le territoire d'autrui ſans le conſentement du maitre du territoire." And Vattel, before cited, l. 3, ſ. 15, * " Le droit de lever des ſoldats appartenant uniquement à la nation ou au ſouverain, perſonne ne peut en enroller en pays etranger ſans la permiſſion du ſouverain ; ceux qui entreprenent d'engager des ſoldats en pays etranger ſans la permiſſion du ſouverain et en general quiconque debauche les ſujets d'autrui, viole un des droits les plus ſacrés du prince & de la nation. C'eſt le crime qu'on appelle *plaigiat* ou vol d'homme. Il n'eſt aucun etat policé qui ne le puniſe très ſévérement, &c." For I chuſe to refer you to the paſſage, rather than follow it through all its developements. The teſtimony of theſe and other writers on the law and uſage of nations, with your own juſt reflections on them, will ſatisfy you that the United States, in prohibiting all the belligerent powers from equipping, arming and manning veſſels of war in their

ſuccour, and not to give it equally : *for it would be abſurd in a ſtate to ſuccour two enemies at the ſame time. And beſides it would be impoſſible to do it with equality, the ſame things, the ſame number of troops, the ſame quantity of arms, ammunition, &c. furniſhed in different circumſtances, are no longer equivalent ſuccours."*

‖ " *Since a right of raiſing ſoldiers is a right of majeſty, which cannot be violated by a foreign nation, it is not permitted to raiſe ſoldiers on the territory of another, without the conſent of its ſovereign."*

* " *The right of raiſing ſoldiers belonging only to the nation or its ſovereign, no one can enrol them in a foreign country without the permiſſion of the ſovereign. Thoſe who undertake to engage ſoldiers in a foreign country, without permiſſion of the ſovereign—and in general whoſoever corrupts the ſubjects of others, violates one of the moſt ſacred rights of the prince and of the nation. It is the crime which is called* plagiat *or men-theft. There is no policed ſtate which does not ſeverely puniſh it.*

ports, have exerciſed a right and a duty with juſtice, and with great moderation. By our treaties with ſeveral of the belligerent powers, which are a part of the laws of our land, we have eſtabliſhed a ſtile of peace with them. But without appealing to treaties, we are at peace with them all by the laws of nature; for, by nature's law, man is at peace with man, till ſome aggreſſion is committed, which, by the ſame law, authoriſes one to deſtroy another, as his enemy. For our citizens then to commit murders and depredations on the members of nations at peace with us, or to combine to do it, appeared to the executive, and to thoſe whom they conſulted, as much againſt the laws of the land, as to murder or rob, or combine to murder or rob, its own citizens; and as much to require puniſhment, if done within their limits, where they have a territorial juriſdiction, or on the high ſeas, where they have a perſonal juriſdiction, that is to ſay, one which reaches their own citizens only; this being an appropriate part of each nation on an element where all have a common juriſdiction. So ſay our laws, as we underſtand them ourſelves. To them the appeal is made—and whether we have conſtrued them well or ill, the conſtitutional judges will decide. Till that deciſion ſhall be obtained, the government of United States muſt purſue what they think right, with firmneſs, as is their duty. On the firſt attempt that was made, the Preſident was deſirous of involving in the cenſures of the law, as few as might be. Such of the individuals only, therefore, as were citizens of the United States, were ſingled out for proſecution. But this ſecond attempt being, after full knowledge of what had been done on the firſt, and indicating a diſpoſition to go on in oppoſition to the laws, they are to take their courſe againſt all perſons concerned, whether citizens or aliens; the latter, while within our juriſdiction, and enjoying the protection of the laws, being bound to obedience to them, and to avoid diſturbances of our peace within, or acts which would commit it without, equally as citizens are.

I have the honor to be, with ſentiments of great reſpect and eſteem,

Sir,

Your moſt obedient,

And moſt humble ſervant,

TH: JEFFERSON.

PHILADELPHIA, 22d *June*, 1793.
2d year of the Republic.

The Citizen Genet, Miniſter plenipotentiary of the Republic of France, to Mr. Jefferſon, Secretary of ſtate of the United States.

SIR,

DISCUSSIONS are ſhort when matters are taken upon their true principles. Let us explain ourſelves as republicans. Let us not lower ourſelves to the level of ancient politics, by diplomatic ſubtleties. Let us be as frank in our overtures—in our declarations, as our two nations are in their affections; and by this plain and ſincere conduct, arrive at the object by the ſhorteſt way.

All the reaſonings, Sir, contained in the letter, which you did me the honor to write to me the 17th of this month, are extremely ingenious; but I do not heſitate to tell you, that they reſt on a baſis which I cannot admit. You oppoſe to my complaints, to my juſt reclamations, upon the footing of right, the private or public opinions of the Preſident of the United States; and this Egis not appearing to you ſufficient, you bring forward aphoriſms of Vattel, to juſtify or excuſe infractions committed on poſitive treaties. Sir, this conduct is not like ours. In arriving among you, I have, with candor, ſaid that the French nation, cheriſhing the intereſts of the United States more than their own, occupied themſelves but on their happineſs, in the midſt of ſurrounding dangers, and inſtead of preſſing them to fulfil, towards them, all the obligations impoſed on them by our treaties, by gratitude, and by provident policy; they have juſt granted new favours to their commerce, to partake with them the benefits of its navigation, opening to them all the ports in the two worlds: in a word, aſſimilating them to her own citizens.

Such amicable and diſintereſted proceedings ſhould render the federal government, Sir, induſtrious in ſeeking at leaſt all the means of ſerving us as far as circumſtances would permit them; but inſtead of waiting till Congreſs had taken into conſideration the important ſubjects which ſhould already have occupied them; until they had determined whether the war of liberty; whether the fate of France and her colonies, were indifferent objects for America; until they had decided whether it was the intereſt of the United States to profit, or not, of the ſituation in which French magnanimity places them; they have been forward, urged on by I know not what influence, to purſue another conduct. They have multiplied difficulties and embarraſſments in my way. Our treaties have been unfavourably interpreted: Arbitrary orders have directed againſt us the action of the tribunals; indeed, my diplomatic reception excepted, I have met with nothing but diſguſt and obſtacles in the negociations I have been charged with.

It is not thus that the American people wiſh we ſhould be treated. I cannot even ſuppoſe, and I wiſh to believe, that meaſures of this nature were not conceived in the heart of General Waſhington,—of that celebrated hero of liberty. I can attribute them only to extraneous impreſſions, over which time and truth will triumph. I requeſt you therefore, Sir, to lay before this firſt magiſtrate of your Republic, the two incloſed proteſts, which have been juſt tranſmitted to me by the conſuls of the Republic of France at New-York and Philadelphia. You will ſee therein that theſe officers complain, that French prizes, the juriſdiction of which belongs excluſively to the conſular tribunals, have been ſeized in theſe two ports, by orders of the Preſident. I expect from the equity of the federal government, Sir, the immediate redreſs of theſe irregularities; and I venture to hope, alſo, that the Preſident would be pleaſed to examine again the affair of the ſhip Republican, of New-York, and conſider whether (independent of the right which we have to fit out privateers) any of the expreſſions uſed by conſul

Hauterive, to reclaim the giving up of the ſeizure made of that veſſel, proves that ſhe has been armed for this purpoſe. The citizen Hauterive has clearly ſhown, on the contrary, that ſhe was armed by Frenchmen, at a time when the moſt religious of all duties prompted them to fly from all parts of the world to the ſuccour of their country, and to fulfil towards her, thoſe duties to which the Americans would be equally bound, if we had not the deſire to leave to their wiſdom and their honor, the umpirage of their conduct. It is inconteſtible, that the treaty of commerce (art. XXII) expreſsly authoriſes our arming in the ports of the United States, and interdicts that privilege to every enemy nation. Beſides this act forms but a part of our conventional compacts, and it is in them, collectively, that we ought to ſeek contracts of alliance and of commerce ſimultaneouſly made, if we wiſh to take their ſenſe, and interpret faithfully the intentions of the people who cemented them, and of the men of genius who dictated them. If you cannot protect our commerce, and our colonies, which will, in future, contribute much more to your proſperity than to our own, at leaſt do not arreſt the civiſm of our own citizens, do not expoſe them to a certain loſs, by obliging them to go out of your ports unarmed. Do not puniſh the brave individuals of your nation, who arrange themſelves under our banner, knowing perfectly well, that no law of the United States gives to the government the ſad power of arreſting their zeal by acts of rigor. The Americans are free; they are not attached to the glebe like the ſlaves of Ruſſia; they may change their ſituation when they pleaſe, and by accepting, at this moment, the ſuccour of their arms in the habit of trampling on tyrants, we do not commit the plagiat of which you ſpeak. The true robbery, the true crime, would be to enchain the courage of theſe good citizens, of theſe ſincere friends to the beſt of cauſes.

I am ignorant, Sir, of the conſtitutional judges to whom the federal government appear to have it in contemplation to refer the different queſtions of public right, which have ariſen between us; but it appears to me, that theſe judges can be looked upon only as counſellors; ſince no particular tribunal has the right or power to interpoſe between two nations, whoſe only arbiters, when they have a ſincere deſire to live fraternally and amicably together, muſt be, in the preſent ſtate of human ſocieties, good faith and reaſon.

Accept, Sir, the expreſſion of my eſteem, and my reſpectful ſentiments.

GENET.

TRANSLATION.

Conſulate of New-York.

Proteſt of Citizen Hauterive, Conſul of the Republic of France, at New-York, againſt the proceſs and ſeizure of the Catharine of Halifax.

CONSIDERING that tribunals are inſtituted to render juſtice between individuals, and not to judge of the differences that may ariſe between governments, and ſtill leſs to decide on the political re-

lations which exiſt between nation and nation. That their ſphere is circumſcribed within the territorial limits of the ſtate to which they belong. That there cannot be any relation of dependence between the tribunals which therein belong to two different nations.

That the conſular juriſdiction is an extenſion, and a firſt degree of juriſdiction of the tribunals of commerce and of admiralty, inſtituted in foreign countries by the nation to which the political conventions have given the right of conſulate as well as the right of recurring to the public force, to enſure the execution of the conſular diſcuſſions.

That the limits of this juriſdiction depend only on the foreign goverment which has eſtabliſhed it; and that this government may extend or contract it at pleaſure, provided it does not attribute to it any action againſt the perſons, the property, the police and the local juriſdiction.

That in attributing to theſe tribunals dependent upon it, that which belongs to another equally dependent upon it, a government does not go beyond the limits of this power.

That recently the French government hath given to the conſulates of the Republic, the juriſdiction of ſea-prizes, and has thus completely conſtituted them courts of admiralty.

That, by that it only diſplaces one of the branches of the judiciary power. That the geographical poſition of a legally eſtabliſhed tribunal, neither alters the force, nor extent, nor independence of its juriſdiction.

That all intervention direct or indirect, as to the French prizes, being formally interdicted the tribunals of the country, the admiralties of the two nations, however they may locally approach each other, are not the leſs ſeparated from one another by the inſurmountable barrier of political right.

That thus a French prize, remaining in a neutral port in virtue of treaties, is ſubmitted to the conſular admiralty in virtue of the right which nations have of organizing at pleaſure their judicatures, is as much ſheltered from the action of any other local tribunal, as if it were in a French road.

For all theſe reaſons, we Alexander Hauterive, conſul of the Republic of France, conſidering that the New-York diſtrict court has extended its juriſdiction to a French prize, the deciſion of which was pending in our tribunal:

That this intervention, preſcribed by the treaties, not only tends to eſtabliſh a claſhing of juriſdiction between two tribunals, which cannot have communication together, but alſo to the annihilation of the conſular tribunal, which is reduced to nothing as ſoon as the public force, which the treaties have given it the right of demanding to ſupport its judgments, is employed againſt it.

That if this error of the judiciary power could be authoriſed by the government, we muſt ſuppoſe that the government has the right of interpreting, modifying, or deſtroying the political compacts which unite the two nations, by the information and deciſion of the tribunals of one of theſe two nations.

We proteſt againſt the violation done to the rights of the nation we

repreſent; we declare formally, that whatever may be the deciſions of the tribunal, which has arrogated to itſelf the judgment of the prize *Catharine of Halifax*, to the injury of the conſulate juriſdiction, the parties intereſted, who are amenable only to our tribunal, are not bound to conform to it. We declare this judgment to be null, and of no effect whatever; 1ſt, By the notoriety of the incompetency of the tribunal. 2d, Becauſe it would be given in contempt of our proteſt. 3d, Becauſe it would be formed on inſufficient information, the principal papers to elucidate the diſcuſſion, being in our hands, never to go out of them. 4th, Becauſe the French Republic being one of the parties, it would be neceſſary, in order to proceed regularly, that the judges ſhould find in the American laws, that the French nation is amenable, in its political rights, to a private tribunal, and that they may be condemned by default.

We declare, in fine, that theſe rights ſhall remain entire, ſaving the requiſition of damages and intereſt, to the parties intereſted, and the demand of reparation for that of the two nations, who, in the diplomatic judgment, (the only competent arbiter between friendly nations) will be acknowledged injured in its rights.

Further we declare, that the judgment of the fact is ſtill pending in the conſular tribunal of the Republic at New-York.

NEW-YORK, 21ſt June, 1793.
2d year of the French Republic.
Certified to be conformable to the original.

Proteſt of the Conſul of the Republic of France againſt the ſeizure of the ſhip William.

CONSIDERING that no authority on earth has either the right or the power of interpoſing between the French nation and her enemies. That ſhe alone is the arbiter and judge of the offenſive acts which the ſupport of her independence obliges her to commit againſt the deſpotic governments coaleſced to replunge her into a ſtate of ſervitude, from which, abandoned by her friends, and aſſailed by ſo many enemies, ſhe alone has been able to liberate herſelf. That the court of admiralty at Philadelphia, yielding at firſt to ill-founded reclamations, ſince recalling herſelf to the principles of the law of nations, has acknowledged its incompetency to the deciſion on the legality of French prizes.

That hence it evidently reſults, that no local authority can take upon itſelf the information of a diſcuſſion which ariſes, or may ariſe, between nation and nation.

That nevertheleſs the federal government has placed a guard on the ſhip *William*, taken by the French galliot, the Citizen Genet, and by this matter of fact ſeems to declare, that previous to all diſcuſſion it meant to interfere in the examination of the right, and in the deciſion of the facts.

That if the government interferes as local authority in the judgment of the facts, they deny and violate the principle expreſsly declared in the 17th art. of the treaty between America and France.

That if, as a power invested by the nation to communicate with foreign governments, they interfere in the examination of the right, they proceed previously by a method till this day unknown, in preceding a diplomatic discussion by an arbitrary and violent act, and by an execution purely military.

For all these reasons, we, Francis Dupont, Consul of the French Republic at Philadelphia, formally protest against the infringement committed on the rights of the French nation by the local government of Philadelphia.

We declare, that having proceeded in a judiciary manner to the sale of the said ship, and that being accountable in the name of the French nation, to the purchasers of the property acquired by them, we throw upon the government, which has created these obstacles to acquiring the possession, all the damages and interest.

We declare further, that in informing the minister of the French Republic of the violence opposed to the exercise of our functions, we, in his name, reserve by the present protest, the pursuit in reparation for the violation of the conventional compacts, and the outrage against the French nation in the ministry of its agents.

Done in our consulate, Philadelphia, 22d June, 1793, 2d year of the French Republic.

FROIS. DUPONT.

PHILADELPHIA, *June* 11th, 1793.

Mr. Jefferson, Secretary of State, to the Minister Plenipotentiary of France.

SIR,

I HAD the honor of laying before the President your memorial of the 22d of May, proposing that the United States should now pay up all the future instalments of their debt to France, on condition that the sum should be invested in produce. The President having fully deliberated on the subject, I have now the honour of enclosing you a report from the treasury department, made in consequence thereof, and explaining the circumstances which prevent the United States from acceding to that proposition.

In fact, the instalments as they are settled by the Convention between the two nations, far exceed the ordinary resources of the United States. To accomplish them completely and punctually, we are obliged to anticipate the revenues of future times, by loans to as great an extent as we can prudently attempt. As they are arranged however by the Convention, they give us time for successive and gradual efforts. But to croud these anticipations all into a single one, and that to be executed in the present instant, would more than hazard that state of credit, the preservation of which can alone enable us to meet the different payments at the times agreed on. To do even this, hitherto, has required, in the operations of borrowing, time, prudence, and patience; and these operations are still going on in all the extent they will bear. To press them beyond this, would

be to defeat them both now and hereafter. We beg you to be aſſured, and through you to aſſure your nation, that among the important reaſons which lead us to economiſe and foſter our public credit, a ſtrong one, is, the deſire of preſerving to ourſelves the means of diſcharging our debt to them with punctuality and good faith, in the times and ſums which have been ſtipulated between us. Referring to the encloſed report for a more particular developement of the obſtacles of the propoſition, I have the honour to aſſure you of the ſentiments of particular eſteem and reſpect with which I am, Sir,

Your moſt obedient and moſt humble ſervant,

TH: JEFFERSON.

The Secretary of the Treaſury, to whom was referred a communication from the Miniſter Plenipotentiary of the Republic of France, on the ſubject of the debts of the United States, to France, reſpectfully makes thereupon the following report:

THE object of this communication is to engage the United States to enter into an arrangement for diſcharging the reſidue of the debt which they owe to France, by an anticipated payment of the inſtalments not yet due, either in ſpecie or bank bills of equal currency with ſpecie, or in government bonds, bearing intereſt and payable at certain ſpecified periods, upon condition that the ſum advanced ſhall be inveſted in productions of the United States, for the ſupply of the French dominions.

With regard to the firſt expedient, namely, a payment in ſpecie or bank-bills, the reſources of the treaſury of the United States do not admit of its being adopted. The government has relied for the means of reimburſing its foreign debt on new loans to be made abroad. The late events in Europe have thrown a temporary obſtacle in the way of theſe loans, producing, conſequently, an inability to make payment by anticipation of the reſidue of the debt hereafter to grow due.

With regard to the ſecond expedient, that of government bonds payable at certain ſpecified periods; this in ſubſtance, though in other forms, has repeatedly come under conſideration, and has as often been declined as ineligible. Great inconveniencies to the credit of the government, tending to derange its general operations of finance, have been and muſt continue to be perceived in every plan which is calculated to throw ſuddenly upon the market, a large additional ſum of its bonds. The preſent ſtate of things for obvious reaſons would ſerve to augment the evil of ſuch a circumſtance, while the exiſting and poſſible exigencies of the United States, admoniſh them to be particularly cautious at this juncture, of any meaſure which may tend to hazard or impair their credit

Theſe conſiderations greatly outweigh the advantage which is ſuggeſted as an inducement to the meaſure (the condition reſpecting which is the principal circumſtance of the difference between the preſent and former propoſitions) to ariſe from an inveſtment of the ſum

to be advanced in the products of the country; an advantage on which perhaps little ſtreſs can be laid in the preſent and probable ſtate of foreign demand for theſe products.

The motives which diſſuade from the adoption of the propoſed meaſure, may, it is conceived, be the more readily yielded to, from the probability that the utility of it to France might not, on experiment, prove an equivalent for the ſacrifices which ſhe might have to make in the diſpoſition of the bonds.

All which is humbly ſubmitted.

(Signed) ALEXANDER HAMILTON, *Sec'ry of the Treaſury.*

Treaſury Department, June 8, 1793.

A true Copy, *(Signed)* TOBIAS LEAR,
Secretary to the Preſident of the United States.

TRANSLATION.

PHILADELPHIA, 14th *June*, 1793.
2d year of the French Republic.

The Citizen Genet, Miniſter Plenipotentiary of the Republic of France, to Mr. Jefferſon, Secretary of State of the United States.

SIR,

IT is the character of elevated minds, of freemen, not to expoſe themſelves twice to a refuſal. I have requeſted you to make known to the Preſident of the United States, the urgent neceſſities of the French Republic. I have not hidden from you, that having armed near a million of ſoldiers, they have experienced a conſiderable deficiency in their produce; and that they, with their colonies, would be conſigned to the horrors of famine, if the United States ſhould not furniſh them on account of their debt, a part of the ſubſiſtence, which they want. I have offered you, in virtue of my powers, to take in payment, in default of money, bills, or obligations of the ſtate, bearing intereſt till the epoch fixed by our convention, for the reimburſement of your debt. I have endeavoured to convince you of the advantages which would reſult from this operation for the two countries, and more particularly for America, at a time when they have a ſuperabundance of grain and flour; but obſerving, ſir, by the letter which you wrote to me on the 11th June, and by the report of the Secretary of the Treaſury, that none of our propoſitions have been accepted; without entering into the financial reaſons which operate this refuſal, without endeavouring to prove to you that it tends to accompliſh the infernal ſyſtem of the king of England, and of the other kings his accomplices, to deſtroy by famine, the French republicans and liberty; I attend, on the preſent occaſion, only to the calls of my country, and as its neceſſities, and thoſe of the colonies become daily more preſſing, as it has charged me to provide for them at whatever price it might be, I requeſt you, ſir, to inform the Preſident of the United States, that being authoriſed in the name of the French Republic, to give aſſignments to the American merchants or farmers, in payment of the proviſions they may furniſh, from the want of new

advances on the part of the United States, I requeſt, in order to place me in a ſituation to uſe this power, that he preſcribe to the Secretary of the Treaſury, to adjuſt with me immediately the amount of the debt of the United States, to France.

The expedient to which I am about to have recourſe, will, probably, be onerous to the French nation; but as the federal government thinks it may take on itſelf to place us under the neceſſity of employing it, without conſulting Congreſs upon ſo important a matter, I am obliged to follow my inſtructions.

GENET.

PHILADELPHIA, *June* 19th, 1793.

Mr. Jefferſon, Secretary of State, to Citizen Genet, Miniſter of France.

SIR,

ACCORDING to the deſire expreſſed in your letter of the 14th inſtant, the Preſident will give the inſtructions neceſſary for the ſettlement of the inſtalments of principal and intereſt ſtill due from the United States to France. This is an act equally juſt and deſirable for both parties; and although it had not been imagined that the materials for doing it were to be had here at this moment, yet we ſhall be pleaſed to find that they may. In the mean time, what is further to be done, will doubtleſs be the ſubject of further reflexion and enquiry with you; and particularly the operation propoſed in your letter, will be viewed under all its aſpects. Among theſe, we think it will preſent itſelf as a meaſure too queſtionable both in principle and practicability, too deeply intereſting to the credit of the United States, and too unpromiſing in its reſult to France, to be found eligible to yourſelf. Finally, we reſt ſecure that what is of mutual concern, will not be done but with mutual concert.

I have the honour to be, with great reſpect and eſteem,
Sir, your moſt obedient, and
moſt humble ſervant,
TH: JEFFERSON.

TRANSLATION.

PHILADELPHIA, 15th June, 1793.
2d year of the Republic.

The Citizen Genet, Miniſter of the Republic of France, to Mr. Jefferſon, Secretary of State of the United States.

SIR,

THE Citizen Hauterive, conſul of the Republic at New-York, has this moment informed me, that a diſcuſſion has ariſen between him and the government of the ſtate in which he reſides, reſpecting the Embuſcade frigate, upon a point of right. The queſtion is, whether, in a neutral port, an armed veſſel ought to allow a truce of twenty-four hours to enemy veſſels, to go out of it? The Citizen Hauterive received a formal requiſition on this ſubject, from the governor, relative to the departure of the Engliſh packet, who,

without saying positively, that the local government had a right to hinder the frigates going out before the expiration of the truce of twenty-four hours, and that he would use such right, gave him to understand, and appeared to believe that it was universal.

The citizen Hauterive, Sir, has confined himself to a reference of this matter to me, requesting instructions on the subject for himself and the Captain of the frigate. I enclose herein a copy of those which I have just transmitted to him. They have been drawn up on mature examination of the question; and though my opinion differs essentially from that of the Governor of New-York, I am persuaded that the President of the United States, after having taken into consideration the authorities and reasonings which have guided me in tracing to the consul of the Republic, the conduct he ought to pursue, will transmit to the Governor of New-York, orders worthy of his justice and impartiality.

GENET.

TRANSLATION.

PHILADELPHIA, June 15th, 1793.
2d year of the Republic of France.

The Citizen Genet, Minister Plenipotentiary of the Republic of France, to the Citizen Hauterive, Consul at New-York.

I HAVE read with great attention, Citizen, the report you transmitted to me on the 13th of this month, and in which, after having given an account of the discussion which has arisen between you and the Governor of New-York, relative to the frigate of the Republic, the Embuscade, you present for my solution, in order to guide your future conduct, the following question, which gave rise to it, to wit: "Whether in a neutral port, an armed vessel belonging to a belligerent power, should allow a truce of 24 hours to enemy-vessels, desiring to go out." If it were necessary, citizen, to commence a polemic on this question, I should observe to you first, that it has been badly stated, and that not only the duration of the truce, but also the time at which it shall commence, should have been defined; but this investigation is superfluous. The question which you propose to me, citizen, is long since decided by the European powers, who have regulated with each other the principles of neutrality. These principles may to be found in the maritime convention of the northern powers, in the different treaties of commerce which these same powers have mutually entered into: in fine, in those which Russia has concluded with France, Austria, Portugal and the two Sicilies, and none of these entered into with the view to favor the navigation of neutral nations, have had the aukwardness to make mention of a truce to be given by the armed vessels of the powers at war, to the enemy-vessels of those powers which may be found in neutral ports.

The first of the four maxims of neutrals which almost every nation, England excepted, regards as the palladium of commerce, is that every vessel may navigate freely from port to port, on the coasts of nations

at war. This right, derived from the right of nature, is neceſſarily reciprocal; the powers who have acceded to the principles of the neutrality, have never conteſted it; and I cannot tell you, citizen, how much I am ſurprized that the Governor of the State of New-York, ſhould take the advantage of the political opinions promulgated by the United States, to ſubject our veſſels of war to an indefinite truce, which would be a dangerous reſtraint, contrary to the letter, to the ſpirit of our treaties, and which at moſt could be required from a veſſel of an indifferent ſtate, with whom neither obligation nor engagement has been contracted.

In the preſent ſtate of things, citizen, all that the government of the United States can require, is, that we commit no hoſtility againſt our enemies, on the territory and in the waters of the United States; and in renewing to you the order, attentively to obſerve that our veſſels attend to this reſervation; I recommend that you oppoſe with energy, analogous to the ſentiments of friendſhip which we have avowed to the United States, every act or every ſtep, which would deprive our veſſels, armed or unarmed, of the liberty they ought to enjoy in the ports of the United States, in virtue of our treaties, and in virtue of the only principles which have been diplomatically eſtabliſhed, on the rights of neutral nations, which, as I have already ſaid, being founded on the right of nature, the baſis of the rights of man, implicitly comprehend reciprocity, an elementary condition of all the acts dictated by equal and impartial juſtice.

Let thoſe who have another code and other titles to preſent to us, produce them; and in the mean while, the Engliſh of New-York, inſtead of unreaſonably putting themſelves under the protection of principles which their government has always diſdained to acknowledge, and which it has violated in all wars, keep themſelves quiet, or run the chance of failing in the preſence of our forces.

Certified conformable to the original,
GENET.

TRANSLATION.

PHILADELPHIA, 18th *June*, 1793.
2d year of the Republic.

The Citizen Genet, Miniſter of the French Republic, to Mr. Jefferſon, Secretary of State for the United States.

SIR,

I HAVE examined the correſpondence which has taken place between you and my predeceſſor, relative to the requiſition of funds which he has made on the Federal Government, to pay off certain draughts of the adminiſtrators of Saint Domingo, and to procure proviſions for that colony. I pay due reſpect, Sir, to the juſtneſs of the obſervations which you tranſmitted to the Citizen Ternant, on the ſubject of this requeſt. Forced from his circumſpection, by the preſſing inſtances of the adminiſtrators of St. Domingo, I conceive that this requiſition muſt have embarraſſed your government infinitely, and

under this view, I feel all the obligations we owe you, for having, as you yourself expreſſed it, leſs conſulted prudence than friendſhip, in yielding to it. You have with propriety remarked, Sir, that the decree which appropriated for the neceſſities of the colonies, four millions from the debt of the United States to France, not being yet tranſmitted to the federal government, in the uſual official form, ſhould not have an application ſo poſitive, ſo determined as that which the commiſſioners of the adminiſtration of Saint Domingo had given it; and that it was probable the miniſters of France had had recourſe, in order to ſupply the wants of this colony, to operations of another nature than thoſe which took place. In fact, Sir, the drafts for the payment of which the commiſſioners of Saint Domingo, preſſed by imperious circumſtances, have, in ſome degree, obliged the citizen Ternant to demand funds of you, have neither been authorized by the National Convention, nor by the Executive Council; and I muſt even inform you, that I am forbidden to pay, out of the funds placed at my diſpoſal, any other than thoſe drafts which ſhall have been accepted by the conſul La Foreſt, in virtue of orders from my predeceſſor. But, on my arrival here, I was informed that this conſul had received orders from the Miniſter Plenipotentiary, to regiſter all drafts iſſued by the adminiſtration of Saint Domingo, and to pay them out of the new funds which the federal government had proviſionally granted, on the baſis of the decree of the 26th June, although it was not officially notified. I have not thought proper, Sir, to ſtop ſuddenly, the payment of theſe drafts, in the hope that the mode of reimburſing your debt, which you at my requeſt, have laid before the Preſident of the United States, would be adopted by him, and give me the means, 1ſt, to honor the drafts regiſtered by my predeceſſor, the payment of which had been ordered by him—2dly, to provide at the ſame time, for the urgent neceſſities of France and her colonies: But having been deceived in my expectation by motives which are not for me to examine, I find myſelf deprived of the advantage of conciliating all intereſts, and conſtrained to obey only the empire of circumſtances, which preſcribe me to ſuſpend the payment of the colonial drafts, and to employ the funds deſtined for their acquittal, to the purchaſe of proviſions for France and her colonies. This arrangement, Sir, need not alarm either the bearers of the regiſtered drafts, or thoſe of the other drafts, iſſued and not regiſtered, of the adminiſtration of Saint Domingo, and other colonies of the French Republic. The nation will certainly fulfil towards them engagements contracted by its agents. I know that they have deſtined particuliar funds for this purpoſe. I alſo know that the colonies have made contributions in kind, to fulfil their obligations, and provide themſelves, for a part of their wants, and it is according to theſe ideas, that I have determined to have inſerted in the public papers, the incloſed information, the intention of which is to calm inquietudes of the bearers of the drafts which I am obliged to ſet aſide, and to encourage the citizens of the United States to continue to carry ſuccour to their brothers the French Republicans of the

Antilles, whoſe fate depends on this generous act; without which the French colonies will be reduced by famine to put themſelves under a government whoſe commercial principles would not aſſuredly be ſo advantageous to the United States, as thoſe which an enlightened policy and unlimited attachment for the American people have led us to embrace.

GENET.

Citizen Genet, Miniſter Plenipotentiary of the French Republic, to the Citizens of the United States.

WHEREAS ſeveral American citizens who have furniſhed proviſions to the colonies of the French Republic in the Weſt-Indies, have received bills drawn by the adminiſtrators of the reſpective colonies on Citizen La Foreſt, late Conſul-General of the Republic in the United States, and lately on myſelf, in payment for ſuch ſupplies. I inform them that theſe drafts will certainly be paid; the National Convention having appropriated large ſums for that object. But as I am not yet authorized to diſcharge them, I can only in the mean while, adviſe the holders of ſuch bills as have not yet been regiſtered by citizen La Foreſt, to have them recorded in the office of Citizen Dupont, Conſul of the French Republic at Philadelphia, in order to aſcertain the dates of their preſentation; at the ſame time I cannot too much encourage the citizens of the United States, to continue to aſſiſt, with unremitting exertions, their republican brethren of the French Weſt-Indies, whoſe exiſtence from the liberal principles adopted by the National Convention, with regard to the colonies of the French Republic, muſt eſſentially contribute to the proſperity of the United States. The American citizens may reſt aſſured, that the moſt efficacious meaſures have been taken as well in France as in the colonies, to protect their property in all the ports of the Republic, and to enſure to them a prompt payment for their ſupplies in caſh or in merchandize, and at the ſame time to ſecure to them the enjoyment of thoſe favors which the National Convention has lately granted to the citizens of the United States, which aſſimilate them, in reſpect to commericial advantages, to the citizens of France.

Philadelphia, June 17, 1793, *2d year of the French Republic.*

PHILADELPHIA, *June 23d*, 1793.

Mr. Jefferſon, Secretary of State, to Citizen Genet, Miniſter Plenipotentiary of France.

SIR,

IN anſwer to your letter of the 18th inſtant, on the ſubject of the bills drawn by the adminiſtration of St. Domingo, in favor of certain citizens of the United States, I am inſtructed to inform you, that the funds therein mentioned have been ſo clearly underſtood on all hands, to be ſpecially appropriated for the payment of the bills, which were recognized by the former agents of France here, as to be incapable of being diverted, without diſappointing the juſt expectations of our citizens, holders of thoſe bills.

Indeed the government has been ſo much a party in countenancing thoſe expectations, as, in ſuch an event, to lie under an obligation, in point of propriety, to ſatisfy the parties themſelves to the extent of the balance, which yet remains to be advanced.

I have the honor to be, with great and ſincere eſteem,
Sir, your moſt obedient and
moſt humble ſervant,
TH: JEFFERSON.

PHILADELPHIA, *June* 23d, 1793.

Mr. Jefferſon, Secretary of State, to Citizen Genet, Miniſter Plenipotentiary of France.

SIR,

I HAVE the honor to inform you, that in conſequence of the general orders given by the Preſident, a privateer fitted out by Engliſh ſubjects within the ſtate of Georgia, to cruize againſt the citizens of France, has been ſeized by the Governor of Georgia, and ſuch legal proſecutions are ordered, as the caſe will juſtify. I beg you to be aſſured, that the government will uſe the utmoſt vigilance, to ſee, that the laws, which forbid theſe enterprizes, are carried into execution.

I have the honor to be, with great and ſincere eſteem,
Sir, your moſt obedient and
moſt humble ſervant,
TH: JEFFERSON.

TRANSLATION.

PHILADELPHIA, *January 25th, 1793.
2d year of the Republic of France.

SIR,

I LEARN with infinite pleaſure, by your letter of the 23d of this month, that the government of Georgia have cauſed to be ſtopped, a veſſel armed in that ſtate, for the purpoſe of cruiſing againſt the French, and that the perſons intereſted in this veſſel will be proſecuted.

It is to be wiſhed, Sir, that the ſame watchfulneſs and firmneſs may be employed in all the ſtates of the union; for you will obſerve by the encloſed reports of the conſuls of the Republic at Charleſton, at Baltimore, at Philadelphia, and at New-York, that many enemy-veſſels have been armed there, have entered armed, remained there, and have gone out from thence armed, in contempt of our treaties; whilſt in virtue of inſtructions from the Preſident of the United States, the French adventurers, who have been able to put themſelves in a ſtate of defence, in the ports of their allies, in order to go out without danger, and to fulfil otherwiſe, according to circumſtances, the duties of a citizen againſt the enemies of the ſtate, are purſued with rigour.

Accept, Sir, my eſteem and reſpect,
GENET.

* *An error for June.*

PHILADELPHIA, 25th June, 1793.
2d year of the French Republic.

Extracts from the Reports of the Conſuls and Vice-Conſuls of the French Republic, at Charleſton, Baltimore, Philadelphia and New-York, to Citizen Genet.

CHARLESTON, from the 24th May to 6th June.

A BERMUDIAN veſſel has purchaſed 4 cannon in this port, to protect her in returning.—A Dutch veſſel which entered this port without guns, has ſailed with 14—Engliſh veſſels have been in like manner armed here.

BALTIMORE, 21ſt June.

AN Engliſh veſſel called the Truſty, Captain Hale, has been publicly armed as a privateer in this port, by Mr. Hirland* of this city. The Vice-Conſul has complained of it to the Governor and Attorney-General of the ſtate of Maryland.

PHILADELPHIA, 21ſt June, 1793.

A BERMUDIAN veſſel belonging to the ſubjects of the king of England, mounting twelve cannon, purchaſed in this city, ſailed on the 2d inſt. There had ſailed ſome days before, an Engliſh armed veſſel of four guns. The conſul had not been informed of them before the date of this report.

NEW-YORK, 18th June, 1793.

THE Swallow, an Engliſh letter of marque, commanded by Capt. Sion, armed with eight cannon and twenty men at leaſt, and appearing to be about 150 tons burden, has anchored ſo long in this port, as to exclude the idea of her having entered in diſtreſs; though the 17th article of the treaty of commerce between France and America, formally excludes from the ports of both, the enemy veſſels which ſhall have made prizes; and every Engliſh privateer which enters, is authorized by the Engliſh government to take, burn, and deſtroy our veſſels.

It has always remained a queſtion, whether an armed veſſel of that nation on entering, has executed thoſe orders or not. The conſul Hauterive has tranſmitted thoſe obſervations to the governor of the ſtate of New-York, giving him to underſtand, that every veſſel armed for war, and belonging to our enemies, being ſubject to the excluſion contained in our conventional laws, ſhould be obliged to go out of the port of New-York.

Other reports have come to the knowledge of Citizen Genet, by indirect channels, that ſeveral other armaments have been made by the enemies of the Republic in American ports, and that thoſe veſſels have taken on board, without oppoſition, a great number of tories, citizens of the United States, while ſome good whigs, friends of France, who have taken part in her cauſe on board her veſſels, have been arreſted and thrown into priſon, whence the Citizen Genet has not yet been able to liberate them without ſecurity.

Certified conformable to the reports which have been made to me the Miniſter Plenipotentiary of the Republic of France.

* *Suppoſed Ireland.*

PHILADELPHIA, June 30th, 1793.

Mr. Jefferſon, Secretary of State, to Citizen Genet, Miniſter Plenipotentiary of France.

SIR,

I HAVE to acknowledge the receipt of your favour of the 25th inſtant on the ſubject of veſſels belonging to the enemies of France, which have procured arms within our ports, for their defence. Thoſe from Charleſton and Philadelphia have gone off before it was known to the government; and the former, indeed, in the firſt moments of the war, and before preventive meaſures could be taken in ſo diſtant a port. The day after my receipt of your letter, the communications now encloſed from the governor of Maryland came to hand, and prevented our interference on the ſubject of the Truſty, Capt. Hale, a veſſel loaded with flour and lumber, and bound to Barbadoes. You will perceive by the papers, that the Governor of Maryland had got information that ſhe was buying guns, and had given orders for the examination of the fact, but that ſhe got off before the officer could get on board, having cleared out three or four days before. It appears that ſhe was of 300 tons burden, and had mounted four ſmall guns. The caſe of the Swallow is different from any thing which has yet been preſented to the Preſident, which ſhall be ſubmitted to him on his return, and no doubt will meet his earlieſt attention and deciſion.

I have the honour to be, &c.

TH: JEFFERSON.

Extract of a letter from the Governor of Maryland, to the Secretary at War.

"MARYLAND, Annapolis, June 22, 1793.

"IN COUNCIL.

SIR,

"THE encloſed copies of a letter written by this board to the collector of the cuſtoms at the port of Baltimore, and of the anſwer thereto which we have juſt received from his deputy, will ſufficiently explain the firſt caſe which has ſeemed to call for our interference ſince the receipt of your communications reſpecting the fitting out of fighting veſſels within our juriſdiction.

"You will ſee, Sir, that moſt probably, through a ſtep not contemplated by us, that of the officer's applying to Mr. Ireland himſelf for the information we deſired, the ſhip has got out of our reach. We can therefore only endeavour to be better prepared for future occurrences of this kind, which we are told may be expected at the ſame place."

(COPY) IN COUNCIL, 20th June, 1793.

SIR,

A REPORT has reached this board, that a Britiſh ſhip, conſigned to Mr. Ireland, is preparing for ſea in the port of Baltimore, and is to mount twelve pieces of ordnance, which ſhe did not

bring into the country, and which, as it appears to us, cannot be carried from hence to any of the ports of any of the European powers at war, without a deviation from the neutrality profeſſed by the United States, even ſuppoſing that no uſe is intended to be made of them by the way; but as thoſe guns are not taken as an article of merchandiſe, but are according to our information mounted profeſſedly for the defence of the veſſel, we can by no means be certain that they are not alſo deſigned for offenſive meaſures; on which ſuppoſition it would become our duty to interfere effectually, ſo as to prevent the departure of the ſhip, until the Preſident could be made acquainted with the circumſtances. Our information is at preſent too vague to form a ſufficient ground for an immediate interference. We therefore make it our requeſt, that you would immediately on the receipt of this letter, collect all the facts you can, with regard to the arming, loading, manning, and deſtination of this veſſel, and without loſs of time, tranſmit to this board the reſult of your enquiries, in order that we may then determine whether this comes within the deſcription of caſes in which we are inſtructed by the executive power of the United States to interfere.

We are, &c.

(Signed) THOMAS S. LEE.

To the Collector of the Cuſtoms at the port of Baltimore.

BALTIMORE, June 21, 1793.

His Excellency Thomas S. Lee, Eſquire.

THE collector of the cuſtoms being abſent in the country for the benefit of his health, I have the honour of receiving your excellency's communications reſpecting a Britiſh ſhip ſaid to be preparing for ſea, in an offenſive ſituation, inconſiſtent with the tenor of the Preſident's proclamation, and the neutrality of the United States.

I preſume that the ſhip Truſty, John A. Hale, maſter, is the veſſel alluded to; ſhe arrived at this port from Barbadoes, on the firſt day of March, and cleared for the ſame iſland, on the ſeventeenth of the preſent month, her cargo conſiſting of flour and lumber.

Mr. Ireland informed me that ſhe mounts four ſmall guns, that her crew conſiſted of twenty men when ſhe arrived, and that ſhe had not more than ſeventeen on board when ſhe cleared. She is upwards of three hundred tons burden.

Vague report, however, differing from the preceding account, I determined to go on board the ſhip for the purpoſe of obtaining accurate information, but was prevented by her getting under way, and proceeding down the river on her intended voyage.

I have the honor to be your Excellency's very humble ſervant,

(Signed,) D. DELOSIER, *Deputy-Collector.*

His Excellency Thomas S. Lee, Eſq. Governor of Maryland.

PHILADELPHIA, June 25, 1793.

Mr. Jefferson, Secretary of State, to the Minister Plenipotentiary from the Republic of France to the United States.

SIR,

IN the absence of the President of the United States, I have consulted with the Secretaries of the Treasury and War, on the subject of the ship William, and generally of vessels suggested to be taken within the limits of the protection of the United States, by the armed vessels of your nation, concerning which I had the honor of a conversation with you yesterday; and we are so well assured of the President's way of thinking in these cases, that we undertake to say, it will be more agreeable to him, that such vessels should be detained under the orders of yourself, or of the consuls of France in the several ports, until the government of the United States shall be able to enquire into, and decide on the facts. If this arrangement should be agreeable to you, and you will be pleased to give the proper orders to the several consuls of your nation, the governors of the several states will be immediately instructed to desire the consul of the port, to detain vessels on whose behalf such suggestions shall be made, until the government shall decide on their case. It may sometimes, perhaps, happen, that such vessels are brought into ports where there is no consul of your nation resident, nor within any convenient distance. In that case, the governors would have to proceed to the act of detention themselves, at least until a consul may be called in.

I have the honor to be, with much respect, Sir,

Your most obedient, and most humble servant,

(Signed) TH: JEFFERSON.

TRANSLATION.

PHILADELPHIA, 26th June, 1793.
2d year of the French Republic.

The Citizen Genet, Minister Plenipotentiary of the Republic of France, to Mr. Jefferson, Secretary of State of the United States.

SIR,

THE letter which you have done me the honor to write since the departure of the President of the United States, contains dispositions worthy of your wisdom, and of the sentiments which characterise you. The arrangement which you propose, Sir, suits us in every respect: I shall communicate it to the consuls and vice-consuls of the Republic, and in recommending them to conform to it, I shall add to the instructions already given on the subject of prizes, new regulations, the rigid execution of which will prove to the federal government, that we regard it as the first of our duties to respect all the rights of sovereignty of the United States; to undertake nothing that may be disagreeable to them; and to unite all our efforts to perpetuate and to cement more and more the connections which so happily unite our two Republics.

GENET.

PHILADELPHIA, June 29th, 1793.

Mr. Jefferſon, Secretary of State, to the Miniſter Plenipotentiary of France.

SIR,

THE perſons who reclaimed the ſhip William, as taken within the limits of the protection of the United States, having thought proper to carry their claim firſt into the courts of admiralty, there was no power in this country which could take the veſſel out of the cuſtody of that court, till it ſhould decide itſelf whether it had juriſdiction or not of the cauſe; having now decided that it has not juriſdiction, the ſame complaint is lodged with the executive.

I have the honor to encloſe you the teſtimony whereon the complaint is founded. Should this ſatisfy you that it is juſt, you will be ſo good as to give orders to the conſul of France at this port, to take the veſſel into his cuſtody and deliver her to the owners. Should it be over-weighed in your judgment, by any contradictory evidence, which you have, or may acquire, I will aſk the favor of a communication of that evidence, and that the conſul retain the veſſel in his cuſtody until the executive of the United States conſider and decide finally on the ſubject.

I have the honor to be, with much reſpect,
Sir, your moſt obedient and
moſt humble ſervant,
TH: JEFFERSON.

Maryland, Saint Mary's County, ſſ.

BENEDICT WHEATLEY, of Saint Mary's, regularly admitted and qualified as a branch pilot for the Cheſapeake-Bay, and Potowmac river, being duly ſworn, depoſeth and ſayeth, that on Friday the third day of May laſt paſt, being on the look-out for inward bound veſſels, fell in with the ſhip William, James Leggat, maſter, from Germany, bound to Potowmac, about nine miles to the eaſtward of Cape Henry: he immediately took charge of the ſhip as pilot; and after being on board for one hour, and running into the mouth of the bay, with a leading wind, a ſmall ſchooner hove in ſight, coming out from the capes, ſhe run up along ſide, fired one gun, and hailed the ſhip; Captain Leggat hoiſted his Engliſh enſign, on which he was ordered from the ſchooner to ſtrike; the colours after ſome time was hauled down, and a boat from the ſchooner with a lieutenant and ſix or ſeven men, came on board and took poſſeſſion of the ſhip, as a prize to the ſchooner Cincinnatus; a prize-maſter was ordered on board, and all the hands of the ſhip were put on board the ſchooner, except the carpenter and two or three hands.

After the capture, an enquiry was made of the deponent what courſe would clear the middle ground. The neceſſary information was given, and he, the deponent, after being offered a conſiderable reward to carry the ſhip to Philadelphia, declined it, and was put on board a pilot boat that came alongſide at the time.

The deponent further ſayeth, that he underſtood from the captors,

that the ſchooner was from Charleſton, South-Carolina, and commiſſioned at that place by the French Ambaſſador, lately arrived from France; that the captain, whom the deponent did not ſee, was ſaid to be a Frenchman, but all the men that boarded the ſhip appeared to be Americans or Engliſh. She mounted four guns, and carried about fifty men; he further ſayeth, that at the time the ſhip was boarded, the diſtance from the ſhip to the light-houſe on Cape Henry, did not exceed five miles at the utmoſt. The deponent enquired what diſtance from the land they were authorized to take prizes; he was anſwered not leſs than nine miles; on which he replied that the ſhip at the time of capture was not half that diſtance from the light-houſe, on Cape Henry.

his
BENEDICT ⋈ WHEATLEY.
mark.

Sworn before me the ſubſcriber, one of the juſtices of the peace for the county and ſtate aforeſaid, this eighteenth day of May, one thouſand ſeven hundred and ninety-three.

M. JONES.

State of Maryland, Saint Mary's County, to wit:

Theſe are to certify that Mordecai Jones, Eſquire, before whom the within depoſition was made, and who in witneſs thereto appears to have ſubſcribed his name, was, at the taking and ſubſcribing the ſame, and now is, one of the juſtices of the peace of the ſtate, and for the county aforeſaid, thereunto duly authorized, commiſſioned and ſworn; and that to all certificates of probates before him made, and by him ſigned, due faith and credit is and ought to be given, as well in juſtice court as thereout.

In teſtimony whereof, I have hereunto ſet my hand and affixed the public ſeal of office for Saint Mary's county court, this twentieth day of May, annoque Domini, one thouſand ſeven hundred and ninety-three.

TIMOTHY BOWES, *Clerk of Saint Mary's County Court.*

BY this public inſtrument of proteſt be it made known and manifeſt unto all who ſhall ſee theſe preſents, or hear the ſame read, that on the eighteenth day of May, in the year of our Lord, one thouſand ſeven hundred and ninety-three, before me, Aſheton Humphreys, notary and tabellion public, in and for the commonwealth of Pennſylvania, by lawful authority duly admitted and ſworn, dwelling in the city of Philadelphia, in the ſaid commonwealth, perſonally appeared James Legget, late maſter of the ſhip William, now in this port of Philadelphia, John Whiteſide, late chief mate of the ſaid ſhip, James Ramſey, ſecond mate, and James Manſon, boatſwain, belonging to the ſaid ſhip, and being ſeverally ſworn on the Holy Evangeliſts of Almighty God, did reſpectively depoſe, teſtify, declare, and ſay in manner following, that is to ſay: that on or about the ſixteenth day of February laſt, they ſailed in and with the ſaid ſhip from Bremen, upon the river Weſer, with the wind at north-eaſt, bound on a voyage

to Maryland, in North-America, and on the 22d day of the ſame month, came to anchor at Stramneſs, in the Orcades, with a contrary wind; that on the twenty-ſeventh day of March laſt, they ſailed from Stramneſs aforeſaid, with the wind at ſouth-eaſt, and on the twenty-firſt day of April laſt, the wind blowing very hard ſplit the foreſail, which obliged them to lay the ſhip to with the reefed main-ſail, the wind being at weſt and by ſouth; that on the twenty-ninth day of April aforeſaid, being then in the latitude thirty-ſix degrees thirty-ſix minutes north, a heavy gale of wind blowing from the ſouth-eaſt, ſplit the main-top-ſail, and on the third day of May inſtant, at two o'clock, P. M. they got a pilot on board, and at four o'clock, P. M. of the ſame day, the ſaid ſhip being then about two miles off the light-houſe at Cape Henry, in five fathom water, and as near the ſhore as the pilot on board judged it proper to go, the privateer ſchooner Genet, commanded by Peter Joanna, from Charleſton, fired one gun at the ſaid ſhip William, and deſired them to hawl down their colours and heave the ſhip's head to the eaſtward, the ſaid light-houſe then bearing weſt north-weſt; that the commander of the ſaid privateer then took out of the ſaid ſhip, the ſaid maſter, chief mate, ſecond mate, boatſwain, four of the ſeamen belonging to the ſaid ſhip, and one paſſenger, all of whom were put on board the ſaid privateer, and a prize maſter and ſeven people were put on board the ſaid ſhip, and the ſaid ſhip ſent up to this port of Philadelphia, where ſhe now lays; and theſe appearers, with the ſaid privateer, arrived at this port of Philadelphia the fourteenth day of May inſtant, at about four o'clock in the morning, ſince which they have been let one by one, alternately, on ſhore, until this day, when all of them being on ſhore, they took the opportunity, it being the firſt they have had, of proteſting againſt the capture of the ſaid ſhip William. Wherefore the ſaid James Legget, John Whiteſide, James Ramſay, and James Manſon, for themſelves, their owners, freighters, merchants, mariners, and all others intereſted or concerned in the ſaid ſhip, or her cargo, have proteſted, and by theſe preſents do ſolemnly proteſt againſt the capture of the ſaid ſhip William, by the ſaid privateer ſchooner Genet, and againſt all loſſes, coſts, charges, damages, breaches of bills of lading, contracts, covenants, and agreements whatſoever, already ſuffered, ſuſtained, or occaſioned, or which ſhall or may hereafter be ſuffered, ſuſtained or occaſioned, by reaſon or means of the premiſes, and againſt all incidents and conſequences thereof, and perſiſting in the ſaid proteſt, they the ſaid maſter and other appearers have ſet their hands hereunto, the day and year firſt within written. Thus done and proteſted at Philadelphia aforeſaid, the day and year aforeſaid.

JAMES LEGGET,
JOHN WHITESIDE,
JAMES RAMSAY,
JAMES MANSON.

Quod atteſtor manu et ſigillo rogatus.
L. S. ASSHETON HUMPHREYS, *Notarius Publicus*, 1793

I the within named notary, do hereby certify and atteſt unto all whom it doth or may concern, that the foregoing writing doth contain a juſt and true copy of an original proteſt taken and made before me the ſaid notary, and remaining of record in my notarial office, in the city of Philadelphia, and that I have carefully compared the ſaid copy with the original, ſo remaining of record in my ſaid office, and find it exactly to agree therewith.

In teſtimony whereof, I have hereunto ſet my hand and affixed my ſeal of office of notary, at Philadelphia aforeſaid, this twenty-third day of May, in the year of our Lord, one thouſand ſeven hundred and ninety-three.

ASSHETON HUMPHREYS, *Notarius Publicus*, 1793.

PHILADELPHIA, June 29th, 1793.

Mr. Jefferſon, Secretary of State, to the Miniſter Plenipotentiary of France.

SIR,

A COMPLAINT is lodged with the executive of the United States, that the Sans Culottes, an armed privateer of France, did, on the 8th of May laſt, capture the Britiſh brigantine Fanny, within the limits of the protection of the United States, and ſent th ſaid brig as a prize into this port, where ſhe is now lying.

I have the honor to incloſe you the teſtimony whereon the complaint is founded. Should this ſatisfy you that it is juſt, you will be ſo good as to give orders to the conſul of France at this port, to take the veſſel into his cuſtody, and deliver her to the owners. Should it be overweighed in your judgment, by any contradictory evidence which you have, or may acquire, I will aſk the favor of a communication of that evidence, and that the conſul retain the veſſel in his cuſtody, until the executive of the United States ſhall conſider and decide finally on the ſubject.

I have the honour to be, with much reſpect,
Sir,
Your moſt obedient and moſt humble ſervant,
TH: JEFFERSON.

(COPY)

Virginia, to wit,

TO all perſons whom it may concern, I, John Niviſon, notary public for the diſtrict of Norfolk, by lawful authority duly admitted and qualified, do hereby certify and make known, that Captain Michael Pyle, late maſter of the brig Fanny, David Mac Intoſh mate, and John Mac Cattie, one of the ſailors, perſonally appeared before me, and being duly ſworn on the Holy Evangeliſts of Almighty God, depoſed and ſaid, that they ſailed from Lucia in the iſland of Jamaica, on the fourteenth day of April laſt, having on board a cargo of rum and ſugar, and bound on a voyage to Baltimore, ſhe being in good order for the voyage; that on the ſeventh day of May, at 10 P. M.

being off the mouth of the Chesapeake bay, Cape-Henry bearing, by computation, N. W. by W. distance about seven leagues, they were hailed by a schooner, and were informed that there was a pilot on board for the Chesapeake—they answered that they should not stay for a pilot till the morning—that the wind being at N. E. they steered N. N. W. sailing at the rate of four miles per hour, until half past four A. M. on the eighth, when being in eight fathom of water, Cape-Henry bearing N. W. by W. or N. W. distant as above, by computation, four or five miles, they were captured by the boat aforesaid, which to their great surprize, proved to be a French privateer, called the Sans Culottes, J. B. A. Terry, commander, mounting four guns and two swivels, manned with 45 men—that they were deprived of the vessel and cargo aforesaid, and were detained on board the privateer until the eleventh of the same month, when they were set on shore in Lynn Haven Bay, in the state aforesaid, and that on the same day they arrived as Norfolk.

(Signed) *Michael Pile, master; David Mac Intosh, mate; John Mac Cattie, seaman.*

Wherefore, I, the said Notary public, at the request of the said deponents, did and do now hereby solemnly protest against the privateer and her crew, for all the losses, costs, charges, damages and expenses, suffered or to be suffered by any person or persons whomsoever interested or concerned in the said brig or her cargo, or any part thereof, on her voyage aforesaid, by reason of the capture by the privateer aforesaid.

In testimony whereof, I have hereto set my hand, and caused to be affixed the seal of my office, this 18th day of May, 1793.

(Seal) JOHN NIVISON, Not. Pub.

British Consul's office, State of Virginia.

THESE are to certify, that John Nivison, Esq. before whom the foregoing protest was made, is Notary Public for the district of Norfolk, in the state aforesaid, and that full faith and credit is justly due to such his attestation.

Given under my hand and seal of office at Norfolk, this 14th of May, 1793.

(Seal) JOHN HAMILTON, Consul.

City of Philadelphia, ss.

MICHAEL PILES, master of the brigantine Fanny, of London, being duly sworn on the Holy Evangelists of Almighty God, deposeth and sayeth: That he sailed from Lucia, in the island of Jamaica, on the fourteenth day of April last, bound to Baltimore, in Maryland, having a cargo of rum and sugar on board, the said brigantine being then in good condition; that on the 7th of May, at 10 o'clock, P. M. he, this deponent, being then in the said brigantine, off the mouth of the Chesapeake-Bay, Cape Henry then bearing, by computation, N. W. by W. distant about seven leagues, he was hailed by a schooner, and informed there was a pilot for the Chesapeake on

board, to which this deponent anſwered, that he ſhould not ſtay for a pilot till the morning; that this deponent hailed the ſchooner, and aſked how Cape Henry bore, and what diſtance? and was anſwered from the ſchooner, that Cape Henry bore N. W. and by W. twenty miles diſtant. That the wind being at N. E. this deponent ſteered N. N. W. going at the rate of about four miles an hour, until half paſt four o'clock, or thereabouts, A. M. on the 8th of May, when, being in eight fathom water, Cape Henry, at that time, bearing N. W. by W. or N. W. diſtant about four or five miles, the ſaid brigantine Fanny was captured by the ſaid ſchooner, which, to the great ſurprize of this deponent, proved to be a privateer having on board a commiſſion ſaid to have been granted by the French conſul at Charleſton, in South-Carolina; the ſaid privateer, called the Sans Culottes was commanded by J. B. A. Terry, mounted four guns and two ſwivels, and manned with 45 men: that this deponent, the officers and crew of the ſaid brigantine, were all put on ſhore, on the 11th of May, in Lynn-Haven Bay, in Virginia; that the ſaid brigantine was ſent to Philadelphia, whither this deponent came to claim the veſſel and cargo; but the officers and crew of the ſaid brigantine being deſtitute of friends and money, engaged themſelves on board other veſſels in Virginia, for the purpoſe of ſupporting themſelves, and being thus diſperſed, and ſeparated from the ſaid brigantine, he, this deponent, is thereby deprived of their teſtimony, which he could have obtained, if they had been ſent into the port of Philadelphia, with the ſaid brigantine; and further this deponent ſaith not.

Taken and ſworn, at the city of Philadelphia, this 24th day of June, 1793, before me,

JOHN BARCLAY, *Alderman.*

(Copy) MICHAEL PILE.

TRANSLATION.

PHILADELPHIA, July 8th, 1793.
The 2d year of the French Republic.

The Miniſter of the French Republic, with the United States, to Mr. Jefferſon Secretary of State of the United States.

SIR,

THE French armed veſſel *le Vainqueur de la Baſtille*, of American conſtruction, and heretofore bearing the name of Hector, has ſailed from Charleſton, furniſhed with a French commiſſion, and her old American regiſter, which the commander, Hervieux, ſent to the cuſtom-houſe, after having cleared the bar of that port.

This conduct, condemnable only for its timidity, has led the cuſtom-houſe or Charleſton, to require the government of South-Carolina, to cauſe him to be arreſted; and in conſequence *le Vainqueur de la Baſtille*, has been ſeized at Wilmington, together with a prize which ſhe took in there. The laws of the United States inflict no puniſhment in the preſent caſe, only where there has been an intention of avoiding the duties impoſed by the United States; and, as it is proved by

the war-commiſſion and by the inſtructions in Captain Hervieux's poſſeſſion, that he went out of the port of Charleſton only to reſiſt, as much as poſſible, the unjuſt attacks of our enemies; a duty which all the treaties authoriſe him to fulfil, and which no law of the United States, and conſequently no order of the executive of theſe ſtates, can forbid him to fulfil; I requeſt you, Sir, to deſire of the federal government the liberation of captain Hervieux, and of his crew of the Vainqueur de la Baſtille, heretofore the Hector, and of her prize, now detained in the port of Wilmington, North-Carolina.

GENET.

PHILADELPHIA, 9th July, 1793.
2d year of the French Republic.

The Citizen Genet, Miniſter Plenipotentiary of the French Republic, to Mr. Jefferſon, Secretary of State.

SIR,

YOU required of me details relative to the brigantine *la Petite Democrat*, heretofore *the little Sarah*, at preſent armed, and ready to go out of the Delaware. They are as follow:—This veſſel, Sir, of Engliſh property, armed by our enemies with four cannon, and other arms, was taken by the Embuſcade frigate, belonging to the Republic of France, and ſent into Philadelphia. Her conſtruction being elegant and ſolid, her bottom coppered, and a ſwift ſailer, her maſts and rigging being in good condition, I have thought on the report of the captain of the Embuſcade, and other enlightened mariners, that the acquiſition of this veſſel would be advantageous to the marine of the Republic; and this conſideration, joined to the deſire I had of finding employment for a great number of French marines, who were here expoſed to the dangers which often attend idleneſs and poverty, determined me to take her on account of the ſtate.

I have had her repaired. I have completed her armament, with cannon which I found on board four French veſſels, and given the command of her to Citizen Amiot, enſign of the Republic, and when ready, I ſhall diſpatch her with a commiſſion of the Executive Council, and with my particular inſtructions. I ſhould confine myſelf, Sir, to repreſent to you theſe facts, which require no diſcuſſion on my part, and which cannot create any difficulty on that of your government. When treaties ſpeak, the agents of nations have but to obey. Accept, Sir, my eſteem and reſpect.

GENET.

PHILADELPHIA, 9th July, 1793.
2d year of the French Republic.

The Citizen Genet, Miniſter Plenipotentiary of the French Republic, to Mr. Jefferſon, Secretary of State of the United States.

SIR,

THE Conſul of the French Republic, in this ſtate, four days ago requeſted the Governor of Pennſylvania to order out of the port of Philadelphia, the Jane, an Engliſh privateer, armed with

fixteen cannon, which veſſel came in the 4th of this month, without any appearance of diſtreſs.

The Governor replied to him, that he could not take any meaſures, in this reſpect, during the abſence of the Preſident of the United States. Although this reply, Sir, is accompanied with very obliging and amicable expreſſions, I think it my duty to obſerve, that according to the tenor of the XXIId article of our treaty of amity and commerce, it is not neceſſary to await the deciſion of the Preſident, to cauſe this privateer to depart, not having come in here in diſtreſs, and having had time to take in more proviſions than is neceſſary to go to the neareſt port of the power under which ſhe holds her commiſſion, and according to different reports which I have juſt received, is augmenting her armament.

The treaties being conſidered by the American people as the moſt ſacred laws, the local governments of the United States are bound to acknowledge them, and all the magiſtrates obliged to execute them without delay. I therefore requeſt you, Sir, to preſent theſe conſiderations to the Governor of Pennſylvania, and induce him to fulfil, againſt the privateer Jane, the duties which our treaties impoſe on him.

GENET.

PHILADELPHIA, *July* 12, 1793.

Mr. Jefferſon, Secretary of State, to Mr. Genet, Miniſter Plenipotentiary of France.

SIR,

THE Preſident of the United States, deſirous of having done what ſhall be ſtrictly conformable to the treaties of the United States and laws, reſpecting the ſeveral repreſentations received from yourſelf and the miniſter plenipotentiary of Great Britain, on the ſubject of veſſels arming on arriving within our ports, and of prizes, has determined to refer the queſtions ariſing thereon, to perſons learned in the laws. As this reference will occaſion ſome delay, he will expect from both parties, that in the mean time the Little Sarah, or Little Democrat, the ſhips Jane and William, in the Delaware, the Citoyen Genet and her two prizes, the Lovely Laſs and Prince William Henry, and the brig Fanny, in the Cheſapeake, do not depart until his ultimate determination ſhall be made known. You may be aſſured, Sir, that the delay will be as ſhort as poſſible; and the object of it being to obtain the beſt advice poſſible, on the ſenſe of the laws and treaties reſpecting the ſeveral caſes, I am perſuaded you will think the delay well compenſated.

I have the honor to be,

With ſentiments of the moſt perfect eſteem and reſpect,

Sir,

Your moſt obedient, and

moſt humble ſervant,

TH: JEFFERSON.

PHILADELPHIA, 9th *July*, 1793.
2d year of the Republic.

The Citizen Genet, Miniſter from the French Republic to the United States, to Mr. Jefferſon, Secretary of State of the United States.

SIR,

I HAVE already frequently had the honor of converſing with you on the revolting treatment, which the Engliſh veſſels of war uſe on the high ſeas towards American veſſels. I have informed you of the ſevere viſits to which they ſubject them, and of the ſeizures they make on board of them, and under the protection of the flag of the United States, of the perſons and property of the French citizens.

The reports of all the navigators atteſt the truth of theſe facts, and the complaints encloſed, preſent new proofs. I requeſt you, Sir, to communicate them to the Preſident of the United States, and to be ſo obliging as to inform me of the meaſures he has taken, or thoſe he propoſes to take, to cauſe our enemies to reſpect the flag of the United States as much as we ourſelves do, and to have delivered to our fellow-citizens the property of which they have unjuſtly been deprived.

I muſt obſerve to you, Sir, that as the Engliſh will probably continue to carry off with impunity our citizens, and their property, on board of American veſſels, without embarraſſing themſelves with the philoſophical principles proclaimed by the Preſident of the United States, the engagements we have contracted with you, placing us in the moſt diſadvantageous poſition, with reſpect to our enemies, in depriving us of the privilege of uſing at every point, with regard to them, the right of repriſals, it is as neceſſary for your as for our intereſt, that we ſhould agree quickly to take other meaſures. I expect immediately, Sir, a poſitive anſwer from the federal government, on this ſubject; and I hope, that it will comport with the dignity and juſtice of the American people, who ought not to require, if they are not at preſent in a ſituation to compel the Engliſh to juſtice, whom they have formerly conquered, that we ſhould expoſe ourſelves and them longer, by a miſplaced compliance, to the inſults of that nation, towards whom generous proceedings generally lead only to new outrages.

GENET.

Copy of a DECLARATION *and* PROTEST.

27th June, 1793.

This day, the 27th June, 1793, 2d year of the French Republic, paſt 12 o'clock, Afternoon.

BEFORE us, John Baptiſt Lemaire, Chancellor of the Conſulate of the ſaid Republic, eſtabliſhed at Philadelphia, in the ſtate of Pennſylvania, one of the United States of America, the underſigned, and in the preſence of the witneſſes hereafternamed, appeared the citizen Silvat Du Camp, *de la Baſtille Clairance*, department of ———, for the purpoſe of SAYING and DECLARING.

That having departed from the iſland of St. Lucie, on the 9th of May, 1793, as paſſenger on board the American brigantine Columbia,

captain John Green, of this city of Philadelphia, for this port, an Engliſh privateer, the brigantine Fanny, captain Bloomſbury, of St. Vincent, captured the ſaid brigantine *Columbia*, without any regard to her flag, on the 13th of the ſaid month of May laſt, and conducted her into the port of Baſſeterre, Saint Chriſtophers, where he arrived the ſame day, and where he found ſix or ſeven other American veſſels, which had alſo been carried in there by force.

That the merchandizes that he had on board the ſaid brigantine *Columbia*, conſiſted of 3 barrels of raw ſugar, 7 bales of cotton, 8 caſks and 8 bags of coffee, 12 pieces of handkerchief of Bearn, and about 4500 livres currency of the iſlands, of French and Spaniſh coins, the whole amounting to 21909l. 10ſ. 6 deniers, money of the iſlands, as appears by an invoice, dated the ———, of the appearer, and a bill of lading, of the ſame month of May, ſigned John Green, junior, exhibited to us by the appearer, and which, at his requeſt, ſhall be annexed to theſe preſents, after having been certified by him to be authentic, and by us compared with the original.

That the above ſugar, cotton and coffee, was ſhipped part on account and riſk of citizen John Mercié, of Bourdeaux, owner of the ſhip Titus, of Bourdeaux, and partly on account and riſk of ſundry other perſons intereſted.

That the intention of the appearer had been, to diſpoſe of the ſaid ſugar, cotton and coffee, on account of the above mentioned John Mercié, and of all thoſe concerned in it, on his arrival at Philadelphia.

That on his arrival at Saint Chriſtophers, all the merchandizes already mentioned, were debarked and ſeized by the admiralty of that place, as is proved by the certificate of E. Moore, ſecretary of the ſaid admiralty, placed underneath the depoſition which the ſaid appearer had made before the Engliſh judge, Archibald Eſdale, at the ſaid iſland of Saint Chriſtophers, and which he preſented to us, and at his requeſt, is hereunto annexed, to recur to, duly certified and compared according to the ordinance.

That of the whole of the above, the ſaid appearer having required a certificate, we, the Chancellor above mentioned, have, by theſe preſents, granted the ſame, to avail him as it may of right.

The ſaid appearer expreſsly declaring and proteſting, for all loſſes, and for all expences of damages and intereſts, againſt the ſaid Engliſh privateer the brigantine Fanny, captain Bloomſbury, againſt the ſaid admiralty of Saint Chriſtophers, and againſt all whom it may concern, for the carrying off and ſeizure made by them of all the ſaid merchandizes from on board the ſaid American brigantine *Columbia*, captain Green, in contempt of the dignity of the American nation.

Done at Philadelphia, in the Chancery of the Conſulate of the French Republic, the ſaid day, month, and year above mentioned, in the preſence of the citizens Martin, Oſter and Peter Barriere, reſidents in this city, who have ſigned the ſame with us and the ſaid appearer, after having read the ſame.

The minutes of the preſent remaining in the Chancery.

J. Bt. LEMAIRE.

Examined by us, Conſul of the French Republic, at Philadelphia, this 18th July, 1793, 2d year of the Republic.

(Signed) FROIS. DUPONT.

Certified conformable to the original.

GENET.

We the underſigned paſſengers on board the galliot, the Regulator, Captain White, bound from Jeremie to Baltimore, in the State of Maryland.

DECLARE—

THAT having ſailed on the night of the 21ſt May, 1793, we on the 23d, at three in the morning, met four French frigates; that one of them having fired a cannon, ordered us to hoiſt out our boat: that one of the officers came on board, examined the papers of the captain of the galliot, examined one of our paſſports, and then retired, teſtifying his regret at having detained us.

That on the 25th, about ſix in the morning, being under the great *Inague*, and very cloſe to the land, we ſaw a ſloop, who weighed anchor to the windward, bearing down upon us, fired a cannon at us and hoiſted an Engliſh flag, ſent five armed men on board of us, who rendered an account by a trumpet, that the veſſel was laden with coffee and cotton, and that there were ſome negro ſlaves on board. But at the moment there appeared two other veſſels, towards which the privateer immediately ſteered, ordering us to anchor. Theſe two veſſels were found alſo to be American, and were in like manner obliged to come to anchor. A third appeared ſome time after, and was likewiſe ordered to anchor.

The privateer was employed in viſiting theſe three veſſels until four in the afternoon, during which time we were under the guard of five men, who preſented themſelves to us more like pirates coming to ſeize their prey, than as privateers who have an intention to reſpect a neutral flag. Theſe men whoſe countenances led us to believe them capable of realizing the moſt ſiniſter things, prepared us for an event which would at the ſame time have injured us, in making us fail in the object of our voyage. They informed as that we to be carried into Jamaica.

At four in the afternoon, the captain of the privateer came on board of us with ten armed men, they drove all the paſſengers out of their ſtate rooms, with a naked ſword in one hand and a piſtol in the other, appearing diſpoſed to proceed to violence, without the leaſt effort on the part of their captain to check them. In an inſtant all the effects of the paſſengers were ranſacked. In vain did captain White preſent to them his papers, and endeavour to ſtop them; they paid no attention and ſcarcely looked at them. The repreſentations of theſe hoſtile acts, rendering them ſtill more violent, they threatened thoſe who endeavored to reaſon with them. They broke the locks of the trunks without waiting till the keys were found; they raiſed a part

of the plank of the cabin; they rumaged the captain's trunk, they found money there, ſeized it and gave it to one of their people to take care of. At the ſame time they went to the forecaſtle, they broke open every thing that was locked up. They forced the partitions which ſeparate the births. They cut open a great quantity of coffee bags.

Having however found nothing in this ſearch, made with the greateſt brutality, which falſified the aſſertion of captain White, as to the property of the cargo, they appeared much embarraſſed at the part they ſhould take with reſpect to us. They in particular made offers to ſome of the ſeamen to depoſe againſt the declarations of our captain; they ſent three of them on board the privateer, whom they endeavoured equally, but as unſucceſsfully, to ſeduce.

This vexatious conduct was interrupted by night coming on. It may be conceived how we paſſed it, it did not to us appear probable that men who appeared to breathe nothing but pillage and robbery, would allow this opportunity to eſcape.

On the 26th, as ſoon as day appeared, captain White was called on board the privateer, where ſeveral diſputes aroſe, in which ſome wiſhed to have the veſſel carried into Jamaica, others that the paſſengers with their effects ſhould be put on board as priſoners, and others that the captain's trunk containing money, ſhould be ſeized, others in fine, that they ſhould ſeize the negro ſlaves, or ſend captain White back with a new detachment, who ſhould continue to ſearch the effects and veſſel.

We obſerved among this brutal and greedy hord, a man who not only diſapproved the conduct of the others, but alſo appeared very much oppoſed to the attempt which he ſaw them determined to commit in one way or another on neutral property. This was the ſurgeon of the privateer; perhaps he might have had ſufficient aſcendancy to hinder them from taking the veſſel; but he could not doubtleſs obtain every thing: at eight o'clock the privateer gave orders to the detachment which guarded us, to bring off the negroes and return on board. They at the ſame time permitted captain White to hoiſt ſail. He ſet ſail in order to go and reconnoitre two veſſels which were making for the entrance.

Under theſe circumſtances, captain White, as well as the paſſengers, having no means of reclamation, the former againſt the hoſtile proceed- of the privateer, the latter againſt the carrying off the negroes, could do no otherwiſe than follow their deſtination, reſerving to themſelves the privilege of their reſpective rights againſt this piracy.

Several men belonging to the privateer, have given us information relative to this veſſel, and the captain, by the particular information of the ſurgeon. The veſſel is called the *Joſeph and Mary*, of Kingſton, iſland of Jamaica, commanded by David Harris, owners, M. M. Allen and White; captain Harris appeared to us to be a weak, indeciſive man, without character, having no authority over his crew, and we cannot help thinking that in this rencounter, at the mercy of a crew of fifty or ſixty men, the moſt of whom eager for plunder, without any ſub-

ordination, the veſſel, our perſons and our property, have been in the greateſt danger.

Done on board the galliot called the Regulator, captain White, the 7th June, 1793.

SIMON WHITE, *Captain.*
LEWIS JEWELL, *Maſter.*

(Signed) PETER NOUVEL,
CHOUQUET DE SAVAREAU,
GASTIN DE NOGERE,
G. BENTIER,
} *Paſſengers.*

Certified to be conformable to the original.

GENET.

PHILADELPHIA, 25th *July*, 1793.
2d year of the Republic of France.

The Citizen Genet, Miniſter of the Republic of France, to Mr. Jefferſon, Secretary of State of the United States.

SIR,

I RECEIVE daily new complaints on the inſults which the Engliſh are pleaſed to commit againſt the flag of the United States; the papers here incloſed will prove to you that the ſovereignty of your country is violated with impunity, not by the legitimate exerciſe which we have thought proper to make of ſome rights granted to us by treaty, but by the ſpoliation, the pillage, the bad treatment exerciſed by our enemies, in contempt of your laws, and even under ſhadow of the ſigns of your ſovereignty. On all the ſeas an audacious piracy purſues, even in your veſſels, French property, and alſo that of the Americans when deſtined for our ports—your political rights are counted for nothing: in vain do the principles of neutrality eſtabliſh, that friendly veſſels make friendly goods: in vain, ſir, does the Preſident of the United States, endeavour, by his proclamation, to reclaim the obſervation of this maxim: in vain does the deſire of preſerving peace lead to ſacrifice the intereſts of France to that of the moment; in vain does the thirſt of riches preponderate over honor in the political balance of America; all this management, all this condeſcenſion, all this humility, end in nothing; our enemies laugh at it; and the French too confident, are puniſhed for having believed that the American nation had a flag, that they had ſome reſpect for their laws, ſome conviction of their ſtrength, and entertained ſome ſentiment of their dignity. It is not poſſible for me, ſir, to paint to you, all my ſenſibility at this ſcandal, which tends to the diminution of your commerce, to the oppreſſion of ours and to the debaſement and vilification of Republics. It is for the Americans to make known their generous indignation at this outrage: and I muſt confine myſelf to demand of you a ſecond time, to inform me of the meaſures which you have taken in order to obtain reſtitution of the property plundered from my fellow-citizens, under the protection of your flag. It is from our government they have learned that the

Americans were our allies, that the American nation was sovereign, and that they knew how to make themselves respected. It is then under the very sanction of the French nation that they have confided their property and persons, to the safe-guard of the American flag, and on her they submit the care of causing those rights to be respected. But if our fellow-citizens have been deceived, if you are not in a condition to maintain the sovereignty of your people, speak; we have guaranteed it when slaves, we shall be able to render it formidable, having become freemen.

Accept, Sir, my esteem and respect,

GENET.

This day, the of 18*th July*, 1793, *2d year of the French Republic.*

APPEARED before us, Francis Dupont, Consul of the French Republic, at Philadelphia, in the State of Pennsylvania, the undersigned Citizen la Rouffie, merchant of Bourdeaux, now in this city of Philadelphia, who declared to us, that having departed from St. Mark the 12th of June last, in the American brigantine, the Governor Pinckney, of Charleston, captain D. Jenkins, belonging to Mr. Therick, of the said place; the said vessel was stopped before the Molle on the 14th of said month, by a privateer of the colony of Saint Vincent, who after having visited them and finding nothing which could lead them to doubt the vessel's being really American property, carried them in under the sole pretext, that they had on board said vessel some French passengers; the declarer complaining that they plundered his trunk of two watches, a chain, and a medal, a gold key, and thirty-two half Johannes, and other effects in linen, which places him in a cruel position; that they were carried into Providence, where they remained only eleven days, at a fourth of a dollar per day, at the end of which time they were set at liberty, because the island began to want provisions, and that they were there in too great numbers. The declarer had put on board on account of sundry persons, and to the bearer of the bill of lading, seven hogsheads, twelve tierces and fifty-three sacks of coffee; eight large and four small bales of cotton, and twelve quarters of sugar, which the American captain, whom he supposes to have been gained over, as well as some others of those who were carried into the said port, declared to be French property.

In testimony whereof, the said appearer has signed the present with us, in presence of the two undersigned witnesses.

(Signed)

LA ROUSSIE, BINET OSTER, and FROIS. DUPONT,

Certified conformable to the original.

GENET.

THE undersigned citizens declare, That having departed from *Cayemite, department de la Grande Ance*, the 2d June last, in the American brig Ranger, captain Perkins, bound for New-York, they

were visited in clearing the entrance of *Ignague*, by an English privateer, armed by Monsieur Moz, merchant, of Nassau, Providence, who made them prisoners, and carried them into said place. The undersigned would have avoided exposing their fortunes in time of war, had they not counted on the inviolability of treaties of neutrality, which should naturally guarantee all property on board of a neutral vessel; notwithstanding this consideration was frequently urged to the privateer, he plundered us of 230,000lbs. of coffee, belonging as well to us as four other passengers of the said brig, observing that we were a good prize, according to a paper called a proclamation of General Washington, conveying in substance, that the property of subjects of the belligerent powers might be taken on board American vessels.

In Testimony whereof, we have deposited the present declaration in the Chancery of the Consulate of the French Republic, in order to establish our right at a proper time and place.

NEW-YORK, *the 30th July*, 1793.
2d year of the French Republic.

Signed in original, Morles and M. Sarrazin Guel Ve. le. Sieur, Boithon, and Lamarque, *par main d'emprunt.*

Certified to be conformable to the original deposited in the Chancery of the Consulate at New-York.

GENET.

Copy of a Letter to Citizen Genet, from Conyngham, Nesbitt and Co.

PHILADELPHIA, *July* 26th, 1793.

SIR,

WE have just received advice, that the ship Sally, captain Griffith, loaded by us with flour, from Baltimore to Havre, is just returned to said place, after having been captured by a privateer, and carried into Guernsey or Jersey. The protests and papers will be sent us by the next post. The captain further informs, that they had also captured the ship Columbia, of Baltimore, having on board the French minister drove from Portugal.

Whenever we receive further intelligence, we shall communicate it to you.

Being with respect, Sir,

Your's &c.

Certifié conforme à la lettre de M. M. Conyngham, Nesbitt, et Co. qui est restée entre mes mains à Philadelphie, le 26 Juillet, 1793, l'an 2d.

GENET.

PHILADELPHIA, *July* 24th, 1793.

Mr. Jefferſon, Secretary of State, to Mr. Genet, Miniſter Plenipotentiary of France.

SIR,

YOUR favor of the 9th inſtant, covered the information of Silvat Ducamp, Pierre Nouvel, Chouquet de Savarence, Gaſton de Nogere, and G. Beuſtier, that being on their paſſage from the French Weſt-Indies to the United States, on board merchant veſſels of the United States, with ſlaves and merchandize of their property, theſe veſſels were ſtopped by Britiſh armed veſſels, and their property taken out as lawful prize.

I believe it cannot be doubted, but that by the general law of nations, the goods of a friend found in the veſſel of an enemy, are free, and the goods of an enemy found in the veſſel of a friend, are lawful prize. Upon this principle, I preſume, the Britiſh armed veſſels have taken the property of French citizens found in our veſſels, in the caſes abovementioned; and I confeſs I ſhould be at a loſs on what principle to reclaim it. It is true, that ſundry nations, deſirous of avoiding the inconveniencies of having their veſſels ſtopped at ſea, ranſacked, carried into port, and detained, under pretence of having enemy goods on board, have, in many inſtances, introduced, by their ſpecial treaties, another principle between them, that enemy bottoms ſhall make enemy goods, and friendly bottoms friendly goods; a principle much leſs embarraſſing to commerce, and equal to all parties in point of gain and loſs; but this is altogether the effect of particular treaty, controling, in ſpecial caſes, the general principle of the law of nations, and therefore taking effect between ſuch nations only as have ſo agreed to control it. England has generally determined to adhere to the rigorous principle, having in no inſtance, as far as I recollect, agreed to the modification of letting the property of the goods follow that of the veſſel, except in the ſingle one of her treaty with France. We have adopted this modification in our treaties with France, the United Netherlands, and Pruſſia; and therefore, as to them, our veſſels cover the goods of their enemies, and we loſe our goods when in the veſſels of their enemies. Accordingly, you will be pleaſed to recollect, that in the late caſe of Holland and Mackie, citizens of the United States, who had laden a cargo of flour on board a Britiſh veſſel, which was taken by the French frigate Ambuſcade, and brought into this port; when I reclaimed the cargo, it was only on the ground that they were ignorant of the declaration of war when it was ſhipped. You obſerved, however, ſir, that the 14th article of our treaty had provided that ignorance ſhould not be pleaded beyond two months after the declaration of war, which term had elapſed, in this caſe, by ſome few days; and finding that to be the truth, though their real ignorance was equally true, I declined the reclamation, as it never was in my view to reclaim the cargo, nor in your's to offer to reſtore it, by queſtioning the rule eſtabliſhed in our treaty, that enemy bottoms make enemy goods. With England Spain, Portugal and Auſtria,

we have no treaties; therefore we have nothing to oppose to their acting according to the general law of nations, that enemy goods are lawful prize, though found in the bottoms of a friend. Nor do I see that France can suffer on the whole; for though she loses her goods in our vessels, when found therein by England, Spain, Portugal or Austria, yet she gains our goods, when found in the vessels of England, Spain, Portugal, Austria, the United Netherlands or Prussia; and I believe I may safely affirm, that we have more goods afloat in the vessels of these six nations, than France has afloat in our vessels; and consequently, that France is the gainer, and we the loser, by the principle of our treaty; indeed we are losers in every direction of that principle: for when it works in our favour, it is to save the goods of our friends; when it works against us, it is to lose our own; and we shall continue to lose while the rule is only partially established. When we shall have established it with all nations, we shall be in a condition neither to gain nor lose, but shall be less exposed to vexatious searches at sea. To this condition, we are endeavouring to advance; but as it depends on the will of other nations, as well as our own, we can only obtain it when they shall be ready to concur.

I cannot therefore but flatter myself, that on revising the cases of Ducamp and others, you will perceive, that their losses result from the state of war, which has permitted their enemies to take their goods, though found in our vessels, and consequently, from circumstances over which we have no control.

The rudeness to their persons practised by their enemies, is certainly not favorable to the character of the latter. We feel for it as much as for the extension of it to our own citizens, their companions; and find in it a motive for requiring measures to be taken, which may prevent repetitions of it.

I have the honor to be, &c.

TH: JEFFERSON.

PHILADELPHIA, August 7th, 1793.

Mr. Jefferson, Secretary of State, to Mr. Genet, Minister Plenipotentiary of France.

SIR,

IN a letter of June 5th, I had the honour to inform you, that the President, after re-considering, at your request, the case of vessels armed within our ports, to commit hostilities on nations at peace with the United States, had finally determined, that it could not be admitted; and desired, that all those which had been so armed, should depart from our ports. It being understood afterwards that these vessels either still remained in our ports, or had only left them to cruise on our coasts, and return again with their prizes, and that another vessel, the Little Democrat, had been since armed in Philadelphia, it was desired in my letter of the 12th of July, that such vessels with their prizes should be detained, till a determination should be had, of what was to be done under these circumstances. In disregard, however, of this desire, the Little Democrat went out immediately on a cruise.

I have it now in charge, to inform you that the Preſident conſiders the United States, as bound, purſuant to poſitive aſſurances, given in conformity to the laws of neutrality, to effectuate the reſtoration of, or to make compenſation for prizes, which ſhall have been made, of any of the parties at war with France, ſubſequent to the fifth day of June laſt, by privateers fitted out of our ports.

That it is conſequently expected, that you will cauſe reſtitution to be made of all prizes taken and brought into our ports, ſubſequent to the above mentioned day, by ſuch privateers; in defect of which, the Preſident conſiders it, as incumbent upon the United States, to indemnify the owners of thoſe prizes. The indemnification to be reimburſed by the French nation.

That, beſides taking efficacious meaſures to prevent the future fitting out privateers in the ports of the United States, they will not give aſylum therein, to any which ſhall have been at any time ſo fitted out, and will cauſe reſtitution of all ſuch prizes, as ſhall be hereafter brought within their ports, by any of the ſaid privateers.

It would have been but proper reſpect to the authority of the country, had that been conſulted before theſe armaments were undertaken. It would have been ſatisfactory, however, if their ſenſe of them, when declared, had been duly acquieſced in. Reparation of the injury, to which the United States have been made, ſo involuntarily, inſtrumental, is all which now remains, and in this your compliance cannot but be expected.

In conſequence of the information given in your letter of the 4th inſtant, that certain citizens of St. Domingo, lately arrived in the United States, were aſſociating for the purpoſe of undertaking a military expedition, from the territory of the United States, againſt that iſland, the Governor of Maryland, within which ſtate, the expedition is underſtood to be preparing, is inſtructed to take effectual meaſures to prevent the ſame.

I have the honor to be
With great reſpect,
Sir,
Your moſt obedient, and
moſt humble ſervant,
TH: JEFFERSON.

PHILADELPHIA, Auguſt 16th, 1793.

Mr. Jefferſon, Secretary of State, to Mr. Morris, Miniſter Plenipotentiary of the United States with the Republic of France.

SIR,

IN my letter of June 13th, I encloſed to you the copies of ſeveral letters, which had paſſed between Mr. Ternant, Mr. Genet, and myſelf, on the occurrences to which the preſent war had given riſe within our ports. The object of this communication was to enable you to explain the principles on which our government was conducting itſelf towards the belligerent parties; principles which might not

in all cases be satisfactory to all, but were meant to be just and impartial to all. Mr. Genet had been then but a little time with us; and but a little more was necessary to develope in him a character and conduct, so unexpected, and so extraordinary, as to place us in the most distressing dilemma, between our regard for his nation, which is constant and sincere, and a regard for our laws, the authority of which must be maintained; for the peace of our country which the executive magistrate is charged to preserve; for its honour, offended in the person of that magistrate; and for its character grossly traduced in the conversations and letters of this gentleman. In the course of these transactions, it has been a great comfort to us to believe, that none of them were within the intentions or expectations of his employers. These had been too recently expressed in acts which nothing could discolour, in the letters of the executive council, in the letters and decrees of the National assembly, and in the general demeanor of the nation towards us, to ascribe to them things of so contrary a character. Our first duty, therefore, was to draw a strong line between their intentions, and the proceedings of their minister; our second, to lay those proceedings faithfully before them.

On the declaration of war between France and England, the United States being at peace with both, their situation was so new and unexperienced by themselves, that their citizens were not, in the first instant, sensible of the new duties resulting therefrom, and of the restraints it would impose even *on their dispositions* towards the belligerent powers. Some of them imagined (and chiefly their transient seafaring citizens) that they were free to indulge those dispositions, to take side with either party, and enrich themselves by depredations on the commerce of the other, and were meditating enterprizes of this nature, as there was reason to believe. In this state of the public mind, and before it should take an erroneous direction, difficult to be set right, and dangerous to themselves and their country, the President thought it expedient, through the channel of a proclamation, to remind our fellow-citizens, that we were in a state of peace with all the belligerent powers: that in that state it was our duty neither to aid nor injure any; to exhort and warn them against acts which might contravene this duty, and particularly those of positive hostility, for the punishment of which the laws would be appealed to; and to put them on their guard also as to the risks they would run, if they should attempt to carry articles of contraband to any. This proclamation, ordered on the 19th, and signed the 22d day of April, was sent to you in my letter of the 26th of the same month.

On the day of its publication, we received through the channel of the newspapers, the first intimation that Mr. Genet had arrived on the 8th of the month at Charleston, in character of minister plenipotentiary from his nation to the United States, and soon after, that he had sent on to Philadelphia, the vessel in which he came, and would himself perform the journey by land. His landing at one of the most distant ports of the Union from his points both of departure and des-

tination, was calculated to excite attention, and very ſoon afterwards we learnt that he was undertaking to authoriſe the fitting and arming of veſſels in that port, enliſting men, foreigners and citizens, and giving them commiſſions to cruiſe and commit hoſtilities on nations at peace with us; that theſe veſſels were taking and bringing prizes into our ports; that the conſuls of France were aſſuming to hold courts of admiralty on them, to try, condemn, and authoriſe their ſale as legal prize; and all this before Mr. Genet had preſented himſelf, or his credentials to the Preſident, before he was received by him, without his conſent or conſultation, and directly in contravention of the ſtate of peace exiſting, and declared to exiſt in the Preſident's proclamation, and incumbent on him to preſerve till the conſtitutional authority ſhould otherwiſe declare. Theſe proceedings became immediately, as was naturally to be expected, the ſubject of complaint by the repreſentative here of that power againſt whom they would chiefly operate. The Britiſh miniſter preſented ſeveral memorials thereon, to which we gave the anſwer of May 15th, heretofore encloſed to you, correſponding in ſubſtance with a letter of the ſame date, written to Mr. Ternant, the miniſter of France then reſiding here, a copy of which I ſend herewith. On the next day Mr. Genet reached this place, about five or ſix weeks after he had arrived at Charleſton, and might have been at Philadelphia, if he had ſteered for it directly. He was immediately preſented to the Preſident, and received by him as the miniſter of the Republic; and as the conduct before ſtated ſeemed to beſpeak a deſign of forcing us into the war, without allowing us the exerciſe of any free will in the caſe, nothing could be more aſſuaging than his aſſurances to the Preſident at his reception, which he repeated to me afterwards in converſation, and in public to the citizens of Philadelphia, in anſwer to an addreſs from them, that, on account of our remote ſituation and other circumſtances, France did not expect that we ſhould become a party to the war, but wiſhed to ſee us purſue our proſperity and happineſs in peace. In a converſation a few days after, Mr. Genet told me that M. de Ternant had delivered him my letter of May 15th; he ſpoke ſomething of the caſe of the Grange, and then of the armament at Charleſton, explained the circumſtances which had led him to it before he had been received by the Government, and conſulted its will, expreſſed a hope that the Preſident had not ſo abſolutely decided againſt the meaſure but that he would hear what was to be ſaid in ſupport of it; that he would write me a letter on the ſubject, in which he thought he could juſtify it under our treaty; but that if the Preſident ſhould finally determine otherwiſe, he muſt ſubmit: for that aſſuredly his inſtructions were to do what would be agreeable to us. He accordingly wrote the letter of May 27; the Preſident took the caſe again into conſideration, and found nothing in that letter which could ſhake the grounds of his former deciſion. My letter of June 5th, notifying this to him, his of June 8 and 14, mine of the 17th and his again of the 22d, will ſhow what further paſſed on this ſubject and that he was far from retaining his diſpoſition to acquieſce in the ultimate will of the Preſident.

It would be tedious to purſue this and our ſubſequent correſpondencies, through all their details. Referring therefore for theſe to the letters themſelves, which ſhall accompany this, I will preſent a ſummary view only of the points of difference which have ariſen, and the grounds on which they reſt.

Letters, June 8, 22. 1. May 27. 1ſt. Mr. Genet aſſerts his right of arming in our ports, and of enliſting our citizens, and that we have no right to reſtrain him or puniſh them. Examining this queſtion under the law of nations, founded on the general ſenſe and uſage of mankind, we have produced proofs from the moſt enlightened and approved writers on the ſubject, that a neutral nation muſt, in all things relating to the war, obſerve an exact impartiality towards the parties; that favours to one to the prejudice of the other, would import a fraudulent neutrality, of which no nation would be the dupe; that no ſuccour ſhould be given to either unleſs ſtipulated by treaty, in men, arms, or any thing elſe directly ſerving for war; that the right of raiſing troops, being one of the rights of ſovereignty, and conſequently appertaining excluſively to the nation itſelf, no foreign power or perſon can levy men, within its territory without its conſent; and he who does may be rightfully and ſeverely puniſhed: that if the United States have a right to refuſe the permiſſion to arm veſſels and raiſe men within their ports and territories, they are bound by the laws of neutrality to exerciſe that right, and to prohibit ſuch armaments and enliſtments. To theſe principles of the law of nations Mr. Genet anſwers by calling them 'diplomatic ſubtleties,' and 'aphoriſms of Vattel and others.' But ſomething more than this is neceſſary to diſprove them: and till they are diſproved, we hold it certain that the law of nations and the rules of neutrality forbid our permitting either party to arm in our ports.

June 17. Vattell. 3. ſ. 104. Wolf, 1174. Vattel, 3, ſ. 15. June 22.

June 22. 8. But Mr. Genet ſays, that the 22d article of our treaty allows him *expreſsly* to arm in our ports. Why has he not quoted the very words of that article, *expreſsly* allowing it? For that would have put an end to all further queſtion. The words of the article are, "It ſhall not be lawful for any foreign privateers not belonging to ſubjects of the Moſt Chriſtian King, nor citizens of the ſaid United States, who have commiſſions from any prince or ſtate in enmity with either nation, to fit their ſhips in the ports of either the one or the other of the aforeſaid parties." Tranſlate this from the general terms in which it here ſtands, into the ſpecial caſe produced by the preſent war. "Privateers not belonging to France or the United States, and having commiſſions from the enemies of one of them" are, in the preſent ſtate of things, "Britiſh, Dutch and Spaniſh privateers." Subſtituting theſe then for the equivalent terms, it will ſtand thus, "It ſhall not be lawful for Britiſh, Dutch or Spaniſh privateers, to fit their ſhips in the ports of the United States." Is this an *expreſs* permiſſion to France to do it? Does the negative to the enemies of France, and ſilence as to France herſelf,

imply an affirmative to France? Certainly not: It leaves the queſtion, as to France, open and free to be decided according to circumſtances; and if the parties had meant an affirmative ſtipulation, they would have provided for it expreſsly; they would never have left ſo important a point to be inferred from mere ſilence, or implication. Suppoſe they had deſired to ſtipulate a refuſal to their enemies, but nothing as to themſelves; what form of expreſſion would they have uſed? Certainly the one they have uſed; an expreſs ſtipulation as to their enemies, and ſilence as to themſelves. And ſuch an intention correſponds not only with the words, but with the circumſtances of the times. It was of value to each party to exclude its enemies from arming in the ports of the other, and could, in no caſe, embarraſs them. They therefore ſtipulated ſo far mutually. But each might be embarraſſed by permitting the other to arm in its ports. They therefore would not ſtipulate to permit that. Let us go back to the ſtate of things in France when this treaty was made, and we ſhall find ſeveral caſes, wherein France could not have permitted us to arm in her ports. Suppoſe a war between theſe ſtates and Spain. We know, that by the treaties between France and Spain, the former could not permit the enemies of the latter to arm in her ports. It was honeſt in her, therefore, not to deceive us by ſuch a ſtipulation. Suppoſe a war between theſe ſtates and Great-Britain. By the treaties between France and Great-Britain, in force at the ſignature of ours, we could not have been permitted to arm in the ports of France. She could not then have meant, in this article, to give us ſuch a right. She has manifeſted the ſame ſenſe of it again, in her ſubſequent treaty with England, made eight years after the date of ours, ſtipulating, in the 16th article of it, as in our 22d, that foreign privateers, *not being ſubjects of either crown*, ſhould not arm againſt either in the ports of the other. If this had amounted to an affirmative ſtipulation, that the ſubjects of the other crown might arm in her ports *againſt us*, it would have been in direct contradiction to her 22d article with us. So that, to give to theſe negative ſtipulations an affirmative effect, is to render them inconſiſtent with each other, and with good faith: To give them only their negative and natural effect, is to reconcile them to one another, and to good faith, and is clearly to adopt the ſenſe in which France herſelf has expounded them. We may juſtly conclude then, that the article only obliges us to refuſe this right, in the preſent caſe, to Great-Britain and the other enemies of France. It does not go on to give it to France, either expreſsly or by implication. We may then refuſe it. And ſince we are bound by treaty to refuſe it to the one party, and are free to refuſe it to the other, we are bound by the laws of neutrality, to refuſe it to that other.—The aiding either party then, with veſſels, arms or men, being unlawful by the law of nations, and not rendered lawful by the treaty, it is made a queſtion, Whether our citizens, joining in theſe unlawful enterprizes, may be puniſhed? The United States, being in a ſtate of peace with moſt of the belligerent powers by treaty, and with all of them by the laws of nature, murders and robberies, committed by our citizens, within our territory, or on the high ſeas, on

thoſe with whom we are ſo at peace, are puniſhable, equally as if committed on our own inhabitants. If I might venture to reaſon a little formally, without being charged with running into "ſubtleties and aphoriſms," I would ſay, that if one citizen has a right to go to war of his own authority, every citizen has the ſame. If every citizen has that right, then the nation (which is compoſed of all its citizens) has a right to go to war, by the authority of its individual citizens. But this is not true, either on the general principles of ſociety, or by our conſtitution, which gives that power to congreſs alone, and not to the citizens individually. Then the firſt poſition was not true; and no citizen has a right to go to war of his own authority; and for what he does without right, he ought to be puniſhed. Indeed nothing can be more obviouſly abſurd, than to ſay, that all the citizens may be at war, and yet the nation at peace. It has been pretended, indeed, that the engagements of a citizen, in an enterprize of this nature, was a diveſtment of the character of a citizen, and a transfer of juriſdiction over him to another ſovereign. Our citizens are certainly free to diveſt themſelves of that character, by emigration, and other acts manifeſting their intention, and may then become the ſubjects of another power, and free to do whatever the ſubjects of that power may do. But the laws do not admit, that the bare commiſſion of a crime amounts of itſelf to a diveſtment of the character of a citizen, and withdraws the criminal from their coercion. They would never preſcribe an illegal act among the legal modes by which a citizen might diſfranchiſe himſelf; nor render treaſon, for inſtance, innocent, by giving it the force of the diſſolution of the obligations of the criminal to his country. Accordingly, in the caſe of Henfield, a citizen of theſe ſtates, charged with having engaged, in the port of Charleſton, in an enterprize againſt nations at peace with us, and with having joined in the actual commiſſion of hoſtilities; the Attorney-General of the United States, in an official opinion, declared, that the act, with which he was charged, was puniſhable by law. The ſame thing has been unanimouſly declared by two of the circuit courts of the United States, as you will ſee in the charges of Chief Juſtice Jay, delivered at Richmond, and Judge Wilſon, delivered at Philadelphia, both of which are herewith ſent. Yet Mr. Genet, in the moment he lands at Charleſton, is able to tell the Governor, and continues to affirm in his correſpondence here, that no law of the United States authoriſes their government to reſtrain either its own citizens, or the foreigners inhabiting its territory, from warring againſt the enemies of France. It is true, indeed, that in the caſe of Henfield, the jury which tried, abſolved him. But it appeared, on the trial, that the crime was not knowingly and wilfully committed; that Henfield was ignorant of the unlawfulneſs of his undertaking; that in the moment he was appriſed of it, he ſhowed real contrition; that he had rendered meritorious ſervices during the late war, and declared he would live and die an American. The jury, therefore, in abſolving him, did no more than the conſtitutional authority might have done, had they found him guilty;

the conſtitution having provided for the pardon of offences in certain caſes, and there being no caſe where it could have been more proper than where no offence was contemplated. Henfield, therefore, was ſtill an American citizen, and Mr. Genet's reclamation of him, was as unauthoriſed as the firſt enliſtment of him.

2d. Another doctrine advanced by Mr. Genet is, That our courts can take no cognizance of queſtions, Whether veſſels *held by theirs* as prizes, are lawful prizes or not: That this juriſdiction belongs excluſively to their conſulates here, which have been lately erected by the National Aſſembly, into complete courts of admiralty.

Let us conſider, firſt, What is the extent of the juriſdiction which the conſulates of France may rightfully exerciſe here. Every nation has of natural right, entirely and excluſively, all the juriſdiction which may be rightfully exerciſed in the territory it occupies. If it cedes any portion of that juriſdiction to judges appointed by another nation, the limits of their power muſt depend on the inſtrument of ceſſion. The United States and France have, by their conſular convention, given mutually to their conſuls, juriſdiction in certain caſes ſpecially enumerated. But that convention gives to neither the power of eſtabliſhing complete courts of admiralty within the territory of the other, nor even of deciding the particular queſtion of prize or not prize. The conſulates of France then cannot take judicial cognizance of thoſe queſtions here. Of this opinion Mr. Genet was when he wrote his letter of May 27th, wherein he promiſes to correct the error of the conſul at Charleſton, of whom, in my letter of the 15th, I had complained, as arrogating to himſelf that juridiction, though, in his ſubſequent letters, he has thought proper to embark in the errors of his conſuls. *June* 14. 22.

But the United States, at the ſame time, do not pretend any right to try the validity of captures made *on the high ſeas* by France, or any other nation, over its enemies. Theſe queſtions belong, of common uſage, to the ſovereign of the captor, and whenever it is neceſſary to determine them, reſort muſt be had to his courts. This is the caſe provided for in the 17th article of the treaty, which ſays, that ſuch prizes ſhall not be arreſted, nor cognizance taken of the validity thereof; a ſtipulation much inſiſted on by Mr. Genet and the conſuls, and which we never thought of infringing or queſtioning. As the validity of captures then, made *on the high ſeas*, by France over its enemies, cannot be tried within the United States by their conſuls, ſo neither can it by our courts. Nor is this the queſtion between us, tho' we have been miſled into it.

The real queſtion is, Whether the United States have not a right to protect veſſels within their waters, and on their coaſts? The Grange was taken within the Delaware, between the ſhores of Jerſey and of the Delaware ſtate, and ſeveral miles above its mouth. The ſeizing her was a flagrant violation of the juriſdiction of the United States. Mr. Genet, however, inſtead of apologizing, takes great merit, in his letters, for giving her up. The William is ſaid to have been taken

within two miles of the ſhores of the United States. When the admiralty declined cognizance of the caſe, ſhe was delivered to the French conſul, according to my letter of June 25th, to be kept till the executive of the United States ſhould examine into the caſe; and Mr. Genet was deſired, by my letter of June 29th, to have them furniſhed with the evidence, on behalf of the captors, as to the place of capture. Yet, to this day, it has never been done. The brig Fanny was alleged to be taken within five miles from our ſhore. The Catharine within two miles and a half. It is an eſſential attribute of the juriſdiction of every country, to preſerve peace, to puniſh acts in breach of it, and to reſtore property taken by force within its limits. Were the armed veſſel of any nation, to cut away one of our own from the wharves of Philadelphia, and to chooſe to call it a prize, would this exclude us from the right of redreſſing the wrong? Were it the veſſel of another nation, are we not equally bound to protect it, while within our limits? Were it ſeized in any other waters, or on the ſhores of the United States, the right of redreſſing is ſtill the ſame: And humble indeed would be our condition, were we obliged to depend, for that, on the will of a foreign conſul, or on negociation with diplomatic agents. Accordingly, this right of protection, within its waters, and to a reaſonable diſtance on its coaſts, has been acknowledged by every nation, and denied to none; and if the property ſeized be yet within their power, it is their right and duty to redreſs the wrong themſelves.—France herſelf has aſſerted the right in herſelf, and recognized it in us, in the 6th article of our treaty; where we mutually ſtipulate, that we will, *by all the means in our power*, (not by negociation) protect and defend each other's veſſels and effects, in our ports or roads, or on the ſeas near our countries, and recover and reſtore the ſame to the right owners. The United Netherlands, Pruſſia and Sweden, have recognized it alſo, in treaties with us; and indeed it is a ſtanding formule, inſerted in almoſt all the treaties of all nations, and proving the principle to be acknowledged by all nations.

How, and by what organ of the government, whether judiciary or executive, it ſhall be redreſſed, is not yet perfectly ſettled with us. One of the ſubordinate courts of admiralty, has been of opinion, in the firſt inſtance, in the caſe of the ſhip William, that it does not belong to the judiciary. Another, perhaps, may be of a contrary opinion. The queſtion is ſtill *ſub judice*, and an appeal to the court, of laſt reſort, will decide it finally. If, finally, the judiciary ſhall declare, that it doth not belong to the *civil* authority, it then reſults to the executive, charged with the direction of the *military* force of the union, and the conduct of its affairs with foreign nations. But this is a mere queſtion of internal arrangement, between the different departments of the government, depending on the particular diction of the laws and conſtitution; and it can in no wiſe concern a foreign nation, to which department theſe have delegated it.

3d. Mr. Genet, in his letter of July 9th, requires that the ſhip Jane, which he calls an Engliſh privateer, ſhall be immediately ordered to

depart; and to juſtify this, he appeals to the 22d article of our treaty, which provides, that it ſhall not be lawful for any foreign *privateer* to fit their ſhips in our ports, to ſell *what they have taken*, or purchaſe victuals, &c. The ſhip Jane is an Engliſh merchant veſſel, which has been many years employed in the commerce between Jamaica and theſe ſtates. She brought here a cargo of produce from that iſland, and was to take away a cargo of flour. Knowing of the war when ſhe left Jamaica, and that our coaſt was lined with ſmall French privateers, ſhe armed for her defence, and took one of thoſe commiſſions uſually called Letters of Marque. She arrived here ſafely, without having had any rencounter of any ſort. Can it be neceſſary to ſay, that a merchant-veſſel is not a privateer? That though ſhe has arms to defend herſelf in time of war, in the courſe of her regular commerce, this no more makes her a privateer, than a huſbandman following his plough, in time of war, with a knife or piſtol in his pocket, is thereby made a ſoldier? The occupation of a privateer is to attack and plunder; that of a merchant veſſel is commerce and ſelf-preſervation. The article excludes the former from our ports, and from ſelling *what ſhe has taken*, that is, what ſhe has acquired by war, to ſhow it did not mean the merchant veſſel, and what ſhe had acquired by commerce. Were the merchant veſſels, coming for our produce, forbidden to have any arms for their defence, every adventurer who has a boat, or money enough to buy one, would make her a privateer; our coaſts would ſwarm with them, foreign veſſels muſt ceaſe to come, our commerce muſt be ſuppreſſed, our produce remain on our hands, or at leaſt that great portion of it which we have not veſſels to carry away, our ploughs muſt be laid aſide, and agriculture ſuſpended. This is a ſacrifice no treaty could ever contemplate, and which we are not diſpoſed to make out of mere complaiſance to a falſe definition of the term *privateer*. Finding that the Jane had purchaſed new carriages to mount two or three additional guns, which ſhe had brought in her hold, and that ſhe had opened additional port-holes for them, the carriages were ordered to be relanded, the additional port-holes ſtopped, and her means of defence reduced to be exactly the ſame at her departure, as at her arrival. This was done on the general principle of allowing no party to arm within our ports.

4th. The 17th article of our treaty leaves armed veſſels free to *conduct*, whitherſoever they pleaſe, the ſhips and goods taken from their enemies, without paying any duty, and to depart and be conducted freely to the places expreſſed in their commiſſions, which the captain ſhall be obliged to ſhow. It is evident that this article does not contemplate a freedom *to ſell their prizes here*; but, on the contrary, *a departure* to ſome other place, always to be expreſſed in their commiſſion, where their validity is to be finally adjudged. In ſuch caſe, it would be as unreaſonable to demand duties on the goods they had taken from an enemy, as it would be on the cargo of a merchant veſſel touching in our ports for refreſhment or advices. And againſt this

the article provides. But the armed veſſels of France have been alſo admitted to land and ſell their prize goods here for conſumption; in which caſe, it is as reaſonable they ſhould pay duties, as the goods of a merchantman, landed and ſold for conſumption. They have, however, demanded, and as a matter of right, to ſell them free of duty; a right, they ſay, given by this article of the treaty, though the article does not give the right to ſell at all. Where a treaty does not give the principal right of ſelling, the additional one of ſelling duty free, cannot be given; and the laws, in admitting the principal right of ſelling, may withhold the additional one of ſelling duty free. It muſt be obſerved, that our revenues are raiſed almoſt wholly on imported goods. Suppoſe prize goods enough ſhould be brought in to ſupply our whole conſumption. According to their conſtruction, we are to loſe our whole revenue. I put the extreme caſe, to evince more extremely the unreaſonableneſs of the claim. Partial ſupplies would affect the revenue but partially. They would leſſen the evil, but not the error, of the conſtruction. And I believe we may ſay with truth, that neither party had it in contemplation, when penning this article, to abandon any part of its revenue, for the encouragement of the ſea-robbers of the other.

5th. Another ſource of complaint with Mr. Genet, has been, that the Engliſh take French goods out of American veſſels, which, he ſays, is againſt the law of nations, and ought to be prevented by us. On the contrary, we ſuppoſe it to have been long an eſtabliſhed principle of the law of nations, that the goods of a friend are free in an enemy's veſſel, and an enemy's goods lawful prize in the veſſel of a friend. The inconvenience of this principle, which ſubjects merchant veſſels to be ſtopped at ſea, ſearched, ranſacked, led out of their courſe, has induced ſeveral nations latterly to ſtipulate againſt it by treaty, and to ſubſtitute another in its ſtead, that free bottoms ſhall make free goods, and enemy bottoms, enemy goods; a rule equal to the other in point of loſs and gain, but leſs oppreſſive to commerce. As far as it has been introduced, it depends on the treaties ſtipulating it, and forms exceptions in ſpecial caſes to the general operation of the law of nations. We have introduced it into our treaties with France, Holland and Pruſſia; the French goods found by the two latter nations in American bottoms, are not made prize of. It is our wiſh to eſtabliſh it with other nations. But this requires their conſent alſo, is a work of time, and in the mean while they have a right to act on the general principle, without giving to us, or to France, cauſe of complaint. Nor do I ſee that France can loſe by it on the whole. For though ſhe loſes *her* goods when found in our veſſels, by the nations with whom we have no treaties; yet ſhe gains *our* goods, when found in the veſſels of the ſame, and all other nations: and we believe the latter maſs to be greater than the former. It is to be lamented, indeed, that the general principle has operated ſo cruelly in the dreadful calamity which has lately happened in St. Domingo. The miſerable fugitives, who, to ſave their lives, had taken aſylum in our veſſels, with ſuch

valuable and portable things as could be gathered in the moment, out of the aſhes of their houſes, and wrecks of their fortunes, have been plundered of theſe remains by the licenſed ſea-rovers of their enemies. This has ſwelled, on this occaſion, the diſadvantages of the general principle, that an 'enemy's goods are free prize in the veſſel of a friend.' But it is one of thoſe deplorable and unforeſeen calamities to which they expoſe themſelves who enter into a ſtate of war, furniſhing to us an awful leſſon to avoid it by juſtice and moderation, and not a cauſe or encouragement to expoſe our towns to the ſame burnings and butcheries, nor of complaint, becauſe we do not.

6th. In a caſe like the preſent, where the miſſionary of one government conſtrues differently from that to which he is ſent, the treaties and laws which are to form a common rule of action for both, it would be unjuſt in either to claim an excluſive right of conſtruction. Each nation has an equal right to expound the meaning of their common rules; and reaſon and uſage have eſtabliſhed, in ſuch caſes, a convenient and well underſtood train of proceeding. It is the right and duty of the foreign miſſionary to urge his own conſtructions; to ſupport them with reaſons which may convince, and in terms of decency and reſpect which may reconcile the government of the country to a concurrence. It is the duty of that government to liſten to his reaſonings with attention and candor, and to yield to them when juſt. But if it ſhall ſtill appear to them, that reaſon and right are not on their ſide, it follows of neceſſity, that, exerciſing the ſovereign powers of the country, they have a right to proceed on their own conſtructions and concluſions as to whatever is to be done within their limits. The miniſter then refers the caſe to his own government, aſks new inſtructions, and in the mean time acquieſces in the authority of the country. His government examines his conſtructions, abandons them, if wrong, inſiſts on them, if right, and the caſe then becomes a matter of negociation between the two nations. Mr. Genet, however, aſſumes a new and a bolder line of conduct. After deciding for himſelf ultimately, and without reſpect to the authority of the country, he proceeds to do, what even his ſovereign could not authoriſe; to put himſelf, within the country, on a line with its government, act as co-ſovereign of the territory, arms veſſels, levies men, gives commiſſions of war, independently of them, and in direct oppoſition to their orders and efforts. When the government forbids their citizens to arm and engage in the war, he undertakes to arm and engage them. When they forbid veſſels to be fitted in their ports for cruiſing on nations with whom they are at peace, he commiſſions them to fit and cruize. When they forbid an unceded juriſdiction to be exerciſed within their territory by foreign agents, he undertakes to uphold that exerciſe, and to avow it openly. The privateers Citizen Genet and Sans Culottes, having been fitted out at Charleſton (though without permiſſion of the government, yet before it was forbidden) the Preſident only required they might leave our ports, and did not interfere with their prizes. Inſtead, however, of their quitting our ports, the Sans Culottes remains ſtill, ſtrengthen-

ing and equpping herſelf; and the Citizen Genet went out only to cruize on our coaſt, and to brave the authority of the country by returning into port again with her prizes. Though in the letter of June 5th, the final determination of the Preſident was communicated, that no future armaments in our ports ſhould be permitted, the Vainqueur de la Baſtille was afterwards equipped and commiſſioned in Charleſton, the Anti-George, in Savannah, the Carmagnole, in Delaware, a ſchooner, and a ſloop, in Boſton, and the Polly or Republican was attempted to be equipped in New-York, and was the ſubject of reclamation by Mr. Genet, in a ſtyle which certainly did not look like relinquiſhing the practice. The Little Sarah or Little Democrat was armed, equipped and manned, in the port of Philadelphia, under the very eye of the government, and as if meant to inſult it. Having fallen down the river, and being evidently on the point of departure for a cruize, Mr. Genet was deſired, in my letter of July 12th, on the part of the Preſident, to detain her till ſome enquiry and determination on the caſe ſhould be had. Yet within three or four days after, ſhe was ſent out by orders from Mr. Genet himſelf, and is at this time cruiſing on our coaſts, as appears by the proteſt of the maſter of one of our veſſels maltreated by her.

The government thus inſulted and ſet at defiance by Mr. Genet, committed in its duties and engagements to others, determined ſtill to ſee in theſe proceedings but the character of the individual; and not to believe, and it does not believe, that they are by inſtructions from his employers. They had aſſured the Britiſh miniſter here that the veſſels already armed in their ports ſhould be obliged to leave them, and that no more ſhould be armed in them. Yet more had been armed, and thoſe before armed, had either not gone away, or gone only to return with new prizes. They now informed him that the order for departure ſhould be enforced, and the prizes made contrary to it ſhould be reſtored or compenſated. The ſame thing was notified to Mr. Genet in my letter of Auguſt 7th; and, that he might not conclude the promiſe of compenſation to be of no concern to him, and go on in his courſes, he was reminded that it would be a fair article of account againſt his nation.

Mr. Genet, not content with uſing our force, whether we will or not, in the military line, againſt nations with whom we are at peace, undertakes alſo to direct the civil government; and particularly for the executive and legiſlative bodies, to pronounce what powers may, or may not be exerciſed by the one or the other. Thus in his letter of June 8th, he promiſes to reſpect the political opinions of the Preſident, *till the Repreſentatives ſhall have confirmed or rejected them*, as if the Preſident had undertaken to decide what belonged to the deciſion of Congreſs. In his letter of June 14th, he ſays more openly, that the Preſident ought not to have taken on himſelf to decide on the ſubject of the letter, but that it was of importance enough to have conſulted Congreſs thereon; and in that of June 22d, he tells the Preſident, in direct terms, that Congreſs ought already to have been occupied on certain queſtions which he had been too haſty in deciding.

Thus making himself, and not the President, the judge of the powers ascribed by the constitution to the executive, and dictating to him the occasion when he should exercise the power of convening Congress, at an earlier day than their own act prescribed.

On the following expressions no commentary shall be made

July 9. ' Les principes philosophiques proclamées par le President.'*

June 22. ' Les opinions privées ou publiques de M. le President, et cette egide ne paroissant pas suffisante.'†

June 22. ' Le gouvernement federal s'est empressé, poussé par je ne sçais quelle influence.'‡

June 22. ' Je ne puis attribuer des demarches de cette nature qu'a des impressions etrangeres dont le tems et la verité triompheront.'§

June 25. ' On poursuit avec acharnement, en vertu des instructions de M. le President, les armateurs Français.'‖

June 14. ' Ce refus tend à accomplir le systeme infernal du roi d'Angleterre, et des autres rois ses accomplices, pour faire perir par la famine les republicains Français avec la liberté.'¶

June 8. ' La lache abandon de ses amis.'**

July 25. ' En vain le desir de conserver la paix fait-il sacrifier les interets de la France à cet interet du moment ; en vain le soif des richesses l'emporte-t-elle sur l' honneur dans la balance politique de l'Amérique ; tous ces managemens, toute cette condescendance, toute cette humilité n'aboutissent à rien ; nos ennemis en rient, et les Français trop confiants sont punis pour avoir cru que la nation Americaine avoit un pavillon, qu'elle avoit quelque egard pour ses loix, quelque conviction de ses forces, et qu'elle tenoit au sentiment de sa dignité. Il ne m'est pas possible de peindre toute ma sensibilité sur ce scandale, qui tend à la diminution de votre commerce, à l'oppression du notre, et à l'abaissement, à l'aviliissement des republiques.—Si nos concitoyens ont été trompés, si vous n etes point en etat de soutenir la souveraineté de votre peuple, parlez ; nous l'avons garantie quand nous etions esclaves ; nous saurons la rendre redoutable etant devenus libres.'††

TRANSLATIONS OF THE FRENCH PASSAGES.

* ' *The philosophical principles proclaimed by the President.*'

† ' *The opinions private or public of the President, and this Egis not appearing to you sufficient.*'

‡ ' *The federal government has been eager, urged by I know not what influence.*'

§ ' *I cannot ascribe measures of this nature, but to extraneous impressions over which time and truth will triumph.*'

‖ " *They pursue with rage the French privateers by the orders of the President.*'

¶ ' *This refusal tends to accomplish the infernal system of the king of England, and of the other kings his accomplices, to destroy by famine French freemen and freedom.*'

** ' *The cowardly abandonment of their friends.*'

†† ' *In vain the desire to preserve peace leads you to sacrifice the inte-*

We draw a veil over the ſenſations which theſe expreſſions excite. No words can render them; but they will not eſcape the ſenſibility of a friendly and magnanimous nation, who will do us juſtice. We ſee in them neither the portrait of ourſelves, nor the pencil of our friends; but an attempt to embroil both; to add ſtill another nation to the enemies of his country, and to draw on both a reproach, which it is hoped will never ſtain the hiſtory of either. The written proofs, of which Mr. Genet was himſelf the bearer, were too unequivocal to leave a doubt that the French nation are conſtant in their friendſhip to us. The reſolves of their National Convention, the letters of their Executive Council atteſt this truth in terms which render it neceſſary to ſeek, in ſome other hypotheſis, the ſolution of Mr. Genet's machinations againſt our peace and friendſhip.

Conſcious, on our part, of the ſame friendly and ſincere diſpoſitions, we can with truth affirm, both for our nation and government, that we have never omitted a reaſonable occaſion of manifeſting them. For I will not conſider as of that character opportunities of ſallying forth from our ports to way-lay, rob, and murder defenceleſs merchants and others, who have done us no injury, and who were coming to trade with us in the confidence of our peace and amity. The violation of all the laws of order and morality which bind mankind together, would be an unacceptable offering to a juſt nation. Recurring then only to recent things, after ſo afflicting a libel, we recollect with ſatisfaction that in the courſe of two years, by unceaſing exertions, we paid up ſeven years arrearages and inſtalments of our debt to France, which the inefficacy of our firſt form of government had ſuffered to be accumulating; that preſſing on ſtill to the entire fulfilment of our engagements, we have facilitated to Mr. Genet the effect of the inſtalments of the preſent year, to enable him to ſend relief to his fellow-citizens in France, threatened with famine; that in the firſt moment of the inſurrection which threatened the colony of St. Domingo, we ſtepped forward to their relief with arms and money, taking freely on ourſelves the riſk of an unauthoriſed aid, when delay would have been denial; that we have received, according to our b[illegible] abilities, the

reſts of France to this intereſt of the moment; in vain the thirſt of riches preponderates againſt honor in the political balance of America; all this management, all theſe condeſcenſions, all this humiliation, end in nothing. Our enemies laugh at it; and the French, too confident, are puniſhed for having believed that the American nation had a flag; that it had ſome reſpect for its laws; ſome conviction of its force; and that it had ſome ſentiment of its dignity. It is not poſſible for me to paint to you all my ſenſibility at this ſcandal, which tends to the diminution of your commerce, to the oppreſſion of ours, and to the debaſement and vilification of republics.

'If our fellow-citizens have been deceived, if you are not in a condition to maintain the ſovereignty of your people, ſpeak: we have guarantied it when we were ſlaves; we know how to render it reſpectable being become free.'

wretched fugitives from the cataſtrophe of the principal town of that colony, who, eſcaping from the ſwords and flames of civil war, threw themſelves on us naked and houſeleſs, without food or friends, money or other means, their faculties loſt and abſorbed in the depth of their diſtreſſes; that the excluſive admiſſion to ſell here the prizes made by France on her enemies, in the preſent war, though unſtipulated in our treaties, and unfounded in her own practice, or in that of other nations, as we believe; the ſpirit manifeſted by the late grand jury in their proceedings againſt thoſe who had aided the enemies of France with arms and implements of war; the expreſſion of attachment to his nation, with which Mr. Genet was welcomed, on his arrival and journey from ſouth to north, and our long forbearance under his groſs uſurpations and outrages of the laws and authority of our country, do not beſpeak the partialities intimated in his letters. And for theſe things he rewards us by endeavours to excite diſcord and diſtruſt between our citizens and thoſe whom they have entruſted with their government; between the different branches of our government; between our nation and his. But none of theſe things, we hope, will be found in his power. That friendſhip which dictates to us to bear with his conduct yet awhile, leſt the intereſt of his nation here ſhould ſuffer injury, will haſten them to replace an agent whoſe diſpoſitions are ſuch a miſrepreſentation of theirs, and whoſe continuance here is inconſiſtent with order, peace, reſpect, and that friendly correſpondence which we hope will ever ſubſiſt between the two nations. His government will ſee too that the caſe is preſſing. That it is impoſſible for two ſovereign and independent authorities to be going on within our territory, at the ſame time, without colliſion. They will foreſee that if Mr. Genet perſeveres in his proceedings, the conſequences would be ſo hazardous to us, the example ſo humiliating and pernicious, that we may be forced even to ſuſpend his functions before a ſucceſſor can arrive to continue them. If our citizens have not already been ſhedding each others blood, it is not owing to the moderation of Mr. Genet, but to the forbearance of the government. It is well known that if the authority of the laws had been reſorted to, to ſtop the Little Democrat, its officers and agents were to have been reſiſted by the crew of the veſſel, conſiſting partly of American citizens. Such events are too ſerious, too poſſible, to be left to hazard, or to what is worſe than hazard, the will of an agent whoſe deſigns are ſo myſterious. Lay the caſe then immediately before his government; accompany it with aſſurances, which cannot be ſtronger than true, that our friendſhip for the nation is conſtant and unabating; that, faithful to our treaties, we have fulfilled them in every point, to the beſt of our underſtanding; that if in any thing, however, we have conſtrued them amiſs, we are ready to enter into candid explanations, and to do whatever we can be convinced is right; that in oppoſing the extravagancies of an agent, whoſe character they ſeem not ſufficiently to have known, we have been urged by motives of duty to ourſelves, and juſtice to others, which cannot but be approved by thoſe who are juſt themſelves; and,

finally, that, after independence and self-government, there is nothing we more sincerely wish than perpetual friendship with them.

I have the honor to be, with great esteem, and respect,
Dear Sir, &c.

(Signed) TH: JEFFERSON.

Note, *A copy of the preceding letter was sent enclosed by the Secretary of State to Mr. Genet.*

PHILADELPHIA, August 23d, 1793.

Mr. Jefferson, Secretary of State, to Mr. Morris, Minister Plenipotentiary from the United States to France.

DEAR SIR,

THE letter of the 16th instant, with its documents accompanying this, will sufficiently inform you of the transactions, which have taken place between Mr. Genet, the Minister of France, and the government here, and of the painful necessity they have brought on, of desiring his recall. The letter has been prepared, in the view of being itself, with its documents, laid before the executive of the French government. You will, therefore, be pleased to lay it before them, doing every thing which can be done on your part, to procure it a friendly and dispassionate reception and consideration. The President would indeed think it greatly unfortunate, were they to take it in any other light; and, therefore, charges you very particularly, with the care of presenting this proceeding in the most soothing view, and as the result of an unavoidable necessity on his part.

Mr. Genet, soon after his arrival, communicated the decree of the National Convention of February 15th, 1793, authorising their executive to propose a treaty with us, on liberal principles, such as might strengthen the bonds of good-will, which unite the two nations; and informed us in a letter of May 23d, that he was authorised to treat accordingly. The Senate being then in recess, and not to meet again till the fall, I apprised Mr. Genet that the participation in matters of treaty given by the constitution to that branch of our government, would, of course, delay any definitive answer to his friendly proposition. As he was sensible of this circumstance, the matter has been understood to lie over, till the meeting of senate. You will be pleased, therefore, to explain to the executive of France, this delay, which has prevented, as yet, our formal accession to their proposition to treat; to assure them, that the President will meet them, with the most friendly dispositions on the grounds of treaty proposed by the National Convention, as soon as he can do it in the forms of the constitution; and you will, of course suggest for this purpose, that the powers of Mr. Genet be renewed to his successor.

Since my last, which was of the 13th of June, your Nos. 25, 26, 27, of March 26th, April 4th and 5th have been received. The public papers sent herewith, will give you the current news of the country.

I have the honor to be, with great respect and esteem,
Dear Sir, your most obedient and most humble servt.
TH: JEFFERSON.

NEW-YORK, September 18th, 1793.
2d year of the French Republic, *one and indivisible.*

Citizen Genet, Minister Plenipotentiary of the French Republic, with the United States, to Mr. Jefferson, Secretary of State of the United States.

SIR,

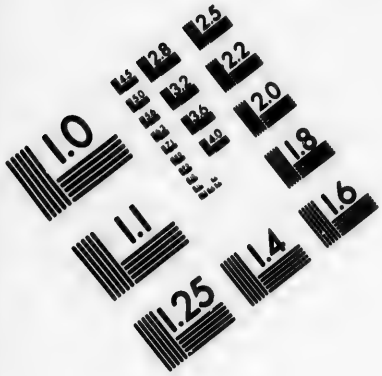
PERSUADED that the sovereignty of the United States resides essentially in the people, and its representation in the Congress; persuaded that the executive power is the only one which has been confided to the President of the United States;—persuaded that this magistrate has not the right to decide questions, the discussion of which, the constitution reserves particularly to the Congress;—persuaded that he has not the power to bend existing treaties to circumstances, and to change their sense;—persuaded that the league formed by all the tyrants, to annihilate republican principles, founded on the rights of man, will be the object of the most serious deliberations of Congress, I had deferred, in the sole view of maintaining good harmony, between the free people of America and France, communicating to my government, before the epoch at which the representatives of the people were to assemble, the original correspondence which has taken place, in writing, between you and myself, on the political rights of France in particular;—on the interests of general liberty; and on the acts, proclamations, and decisions of the President of the United States, relative to objects which require, from their nature, the sanction of the legislative body: however, informed that the gentlemen who have been painted to me so often, as aristocrats, partisans of monarchy, partisans of England, of her constitution, and consequently enemies of the principles which all good Frenchmen have embraced, with a religious enthusiasm;—alarmed at the popularity which was reflected on the Minister of France, by the affection of the American people for the French Republic, and for the glorious cause which it defends; equally alarmed at my unshaken and incorruptible attachment to the severe maxims of democracy, were labouring to ruin me in my country, after having re-united all the efforts to calumniate me in the view of their fellow-citizens, I was going to begin to collect these afflicting materials, and I was taking measures to transmit them to France with my reports, when the denunciation which these same men have excited the President to exhibit against me, through Mr. Morris, came to my hands. Strong in the principles which have directed my conduct, sheltered from every well-founded reproach, I expected, nevertheless, to have found in it some serious allegations; but what has been my astonishment on finding, that the American people were more outraged in it than myself, that it was supposed that I exercised over them a *sovereign* influence, that it was pretended that I was making them take a part in the war of liberty, for the defence of their brethren, of their allies, against the intention of their government; that judgments favourable to our interests, rendered in the midst of the acclamations of the citizens of Philadelphia, by juries and by independent tribunals, have not been the expression of a severe justice; in short, that I was a power

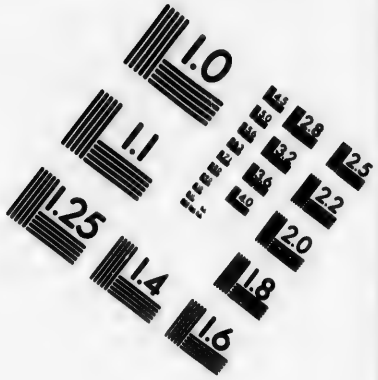
within another power. Such ſtrange accuſations, proving only that the American people loves and ſupports our principles and our cauſe, in ſpite of its numerous enemies; and that the power which they do me the honor to attribute to me, is only that of gratitude ſtruggling againſt ingratitude, of truth combating error. I will ſend no other juſtification of my conduct. I will join only in ſupport of the opinions which I meant to profeſs, ſome writings which have been publiſhed here, ſuch as thoſe of *Veritas* and of *Helvidius*, &c. As to the perſonal outrages, as to the doubts which you inſinuate on my devotion to the union of the people, I have reaſon to believe they will not make a great impreſſion, when the anſwers ſhall be recurred to, which I made to the numerous addreſſes which your fellow-citizens deigned to preſent me: when it ſhall be recollected that placed at the age of twelve years in the bureau of foreign affairs, it was I who had the advantage of contributing to penetrate the French with the ſpirit of 1776 and 1777, by tranſlating into our tongue, under the direction of my father, then head of the bureau, the greater part of your laws and the writings of your politicians; that ſince that epoch, always faithful to the cauſe of liberty, I have rendered to the Americans, in the different employments I have had, all the ſervices which depended on me; and that, in fine, charged to repreſent the French people, with the firſt people who have proclaimed the rights of man, knowing how far our ancient government had put liberticide ſhackles on the commerce and on the intimacy of our two nations; I have neglected nothing to obtain, on the one hand, the liberal baſis on which the new bands which the French people deſire to contract with the United States, were to be negociated, in order that on the other, the Federal Government might be ſenſible how urgent it was to occupy themſelves promptly on the concluſion of this true family compact, which was forever to unite the political and commercial intereſts of two people equally objects of the hatred of all tyrants; beſides, Sir, whatever may be the reſult of the atchievement of which you have rendered yourſelf the generous inſtrument, after having made me believe that you were my friend, after having initiated me into myſteries which have inflamed my hatred againſt all thoſe who aſpire to an abſolute power, there is an act of juſtice, which the American people, which the French people, which all free people are intereſted to reclaim; that is, that there be made a particular enquiry, in the next Congreſs, of the motives on which the head of the executive power of the United States, has taken on himſelf to demand the recall of a public miniſter, whom the ſovereign people of the United States had received fraternally and recognized, before the diplomatic forms had been fulfilled with reſpect to him, at Philadelphia.

It is in the name of the French people, that I am ſent to their brethren—to free and ſovereign men: it is then for the repreſentatives of the American people, and not for a ſingle man, to exhibit againſt me an act of accuſation, if I have merited it. A deſpot may ſingly permit himſelf to demand from another deſpot the recall of his repreſenta-

tive, and to order his expulsion in case of refusal. This is what the Empress of Russia did with respect to myself, from Louis XVI. But in a free state it cannot be so, unless order be entirely subverted; unless the people in a moment of blindness, choose to rivet their fetters, in making to a single individual, the abandonment of their most precious rights. I pray you, then, Sir, to place under the eyes of the President of the United States, the demand which I make in the name of equity, to lay before Congress for their discussion at the epoch when they shall be assembled by the law, if the great events which occupy the Universe, do not appear yet sufficient to hasten their convocation,—1st. All the questions relative to the political rights of France and the United States.—2d. The different cases resulting from our state of war with the powers of whose acts of aggression I have informed you—3d. The heads of accusation which the Minister of the United States with the French Republic is charged to exhibit against me, and against the consuls whose character is compromitted and outraged, in the most scandalous manner, for having obeyed superior orders, which it was neither in their power nor in mine to revoke. In this expectation, Sir, I do not consider the dignity of the French nation as compromitted by the extraordinary position in which I find myself, as well as the consuls, and I have to complain only of the forms you have employed.

The Executive Council of the French Republic had also complaints of a very different nature from those alledged against me, to exhibit against Mr. Morris, your Ambassador at Paris; but penetrated with a just sentiment of respect for the sovereignty of the American people, it recommended to me only to make confidential observations to you on the necessity of recalling this Minister Plenipotentiary, accused by the public voice of facts established, but not by the representatives of the people after a regular enquiry, of having favoured as much as he could, the counter-revolutionary projects of Louis XVI. of communicating to him memoirs, in which he advised him not to accept the constitution; of having had no connexions but with suspected persons; of having affected the greatest contempt for all those who served faithfully the cause of the people; of having been the channel of the counsels which conducted La Fayette into the prisons of Prussia; of having abused the respect of the French people for the envoy of the American people, to facilitate more surely the correspondence and the conspiracies of all its enemies; of having shewn nothing but ill-humour in his relations with the ministers of the French Republic; of having affected in writing to them, to employ, in speaking of the Executive of the United States, only the words "in the name of my court," so shocking to republican ears; of having demanded a passport the 10th August, 1792, to go into England with the Ambassador of George III; and of having said publicly, with a confidence which the present event justifies, that if the embassy of the republic should be received at Philadelphia, its existence and that of the republican consuls in America, would not be of long duration there.





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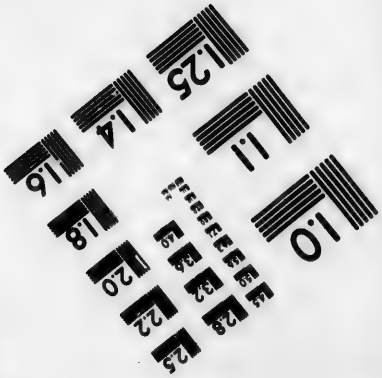

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I have already mentioned to you, Sir, ſome of theſe imputations; but, as I have already told you, out of reſpect to the ſovereignty of the United States, I thought I ſhould leave to their wiſdom, the care of taking meaſures, the moſt ſuitable to reconcile their dignity with what their prudence might require.

Not doubting, Sir, that the juſtice which I require will be done me, as well as my co-operators, I ought to inform you, that I am about to have printed all my correſpondence with you, all my inſtructions, and all thoſe of the conſuls, in order that the American people, whoſe eſteem is dearer to me than life, may judge if I have been worthy or not of the fraternal reception which it deigned to give me: if in all my official papers I have not expreſſed my reſpect for that virtuous nation, and my confidence in the purity of their ſentiments; if I have inſiſted on a ſingle principle, which has not been ſupported ſince, by deciſions of the juries or tribunals of the country; if in acting and expreſſing myſelf with the frankneſs and the energy of a republican, I have attacked the conſtitution; if I have refuſed reſpect to a ſingle law: in fine, if, in reclaiming with all the firmneſs which was preſcribed to me, the faithful execution of our treaties, I have not endeavoured to encourage the federal government to employ the only means, worthy of a great people, to preſerve peace and to enjoy the advantages of neutrality—an uſeful object, not to be obtained by timid and uncertain meaſures, by premature proclamations, which ſeem extorted by fear, by a partial impartiality, which ſours your friends without ſatisfying your enemies, but by an attitude firm and pronounced, which appriſes all the powers that the very legitimate deſire of enjoying the ſweets of peace, has not made you forget what is due to juſtice, to gratitude, and that without ceaſing to be neutral, you may fulfil public engagements, contracted with your friends, in a moment when you were yourſelves in danger.

I will anſwer more in detail, Sir, at a proper time, to your violent diatribe; but it contains one fact on which I muſt now give you explanations. You are made to reproach me with having indiſcreetly given to my official proceedings, a tone of colour, which has induced a belief, that they did not know, in France, either my character or my manners. I will tell you the reaſon, Sir; it is that a pure and warm blood runs with rapidity in my veins; that I love paſſionately my country; that I adore the cauſe of liberty; that I am always ready to ſacrifice my life to it; that to me, it appears inconceivable, that all the enemies of tyranny, that all virtuous men, do not march with us to the combat; and that when I find, an injuſtice is done to my fellow-citizens, that their intereſts are not eſpouſed with the zeal which they merit, no conſiderations in the world, would hinder either my pen or my tongue from tracing, from expreſſing my pain. I will tell you then without ceremony, that I have been extremely wounded, Sir, 1ſt. That the Preſident of the United States was in a hurry, before knowing what I had to tranſmit to him, on the part of the French Republic, to proclaim ſentiments, on which decency and friendſhip ſhould at

leaſt have drawn a veil. 2d. That he did not ſpeak to me at my firſt audience, but of the friendſhip of the United States towards France, without ſaying a word to me; without announcing a ſingle ſentiment on our revolution; while all the towns from Charleſton to Philadelphia, had made the air reſound with their moſt ardent wiſhes for the French republic. 3d. That he had received and admitted to a private audience, before my arrival, Noailles and Talon, known agents of the French counter-revolutioniſts, who have ſince had intimate relations with two members of the federal government. 4th. That this firſt magiſtrate of a free people, decorated his parlour with certain medallions of Capet and his family; which ſerved at Paris as ſignals of rallying. 5th. That the firſt complaints which were made to my predeceſſor on the armaments and prizes which took place at Charleſton on my arrival, were in fact but a paraphraſe of the notes of the Engliſh Miniſter. 6th. That the Secretary of War, to whom I communicated the wiſh of our governments of the Windward Iſlands, to receive promptly, ſome fire-arms, and ſome cannon, which might put into a ſtate of defence, poſſeſſions guaranteed by the United States, had the front to anſwer me with an ironical carleſſneſs, that the prinicples eſtabliſhed by the Preſident, did not permit him to lend us ſo much as a piſtol. 7th. That the Secretary of the Treaſury, with whom I had a converſation on the propoſition which I had made to convert almoſt the whole American debt, by means of an operation of finance authoriſed by law, into flour, rice, grain, ſalted proviſions, and other objects of which France had the moſt preſſing need, added to the refuſal which he had already made officially of favouring this arrangement, the poſitive declaration, that even if it were practicable, the United States could not conſent to it, becauſe England would not fail to conſider this extraordinary reimburſement, furniſhed to a nation with whom ſhe is at war, as an act of hoſtility. 8th. That by inſtructions from the Preſident of the United States, the American citizens who ranged themſelves under the banners of France, have been proſecuted and arreſted; a crime againſt liberty unheard of, of which a a virtuous and popular jury avenged with eclat the defenders of the beſt of cauſes. 9th. That incompetent tribunals were ſuffered to take cognizance of facts relative to prizes which treaties interdict them expreſsly from doing; that on the acknowledgment of their incompetence, this property, acquired by the right of war, was taken from us; that it was thought ill of, that our conſuls proteſted againſt theſe arbitrary acts; and that as a reward for his devotion to his duty, the one at Boſton was impriſoned as a malefactor. 10th. That the Preſident of the United States, took on himſelf to give to our treaties arbitrary interpretations, abſolutely contrary to their true ſenſe. and that by a ſeries of deciſions which they would have us receive as laws, he left no other indemnification to France, for the blood ſhe ſpilt, for the treaſure ſhe diſſipated in fighting for the independence of the United States, but the illuſory advantage of bringing into their ports the prizes made on their enemies, without being able to ſell them. 11th,

That no anſwer is yet given to the notification of the decree of the National Convention for opening our ports in the two worlds to the American citizens, and granting the ſame favours to them, as to the French citizens; advantages which will ceaſe if there be a continuance to treat us with the ſame injuſtice. 12th. That he has deferred in ſpite of my reſpectful inſinuations, to convoke Congreſs immediately, in order to take the true ſentiments of the people, to fix the political ſyſtem of the United States, and to decide whether they will break, ſuſpend or tighten their bands with France; an honeſt meaſure which would have avoided to the federal government much contradiction and ſubterfuge, to me much pain and diſguſt, to the local governments, embarraſſments, ſo much the greater, as they found themſelves placed between treaties, which are laws and deciſions of the federal government, which are not: in fine, to the tribunals, duties ſo much the more painful to fulfil, as they have been often under the neceſſity of giving judgments contrary to the intentions of the government.

It reſults from all theſe facts, ſir, that I could not but be profoundly affected with the conduct of the Federal Government towards my country, a conduct ſo contrary to what the will of their ſovereign, to what the proceedings of mine gave me reaſon to expect; and that if I have ſhewn firmneſs, it is becauſe it was indiſpenſable that my reſiſtance ſhould be equal to the oppreſſion, to the injuſtice, which were in oppoſition to the intereſts confided in me; it is, that it was not in my character to ſpeak as many people do, in one way, and act in another; to have an official language, and a language confidential. I have done ſtrictly my duty; I have defended my ground, and I will ſuffer no precedent againſt any of the rights of the French people while there remains to me a breath of life; while our two republics ſhall not have changed the baſis of their political and commercial relations, while they ſhall not have perſuaded the American people that it is more advantageous for them to become inſenſibly the ſlaves of England, the paſſive tributaries of their commerce, the ſport of their politics, than to remain the allies of the only power who may be intereſted to defend their ſovereignty and their independence; to open to them their colonies, and to their riches thoſe markets which double their value. If it be to this that tend all the machinations ſet in motion againſt the French republicans, and againſt their friends in the United States: if it be to attain this more conveniently, that they wiſh to have here, inſtead of a democratic ambaſſador, a miniſter of the ancient regimen, very complaiſant, very mild, well diſpoſed to pay his court to people in place, to conform himſelf blindly to whatſoever may flatter their views and their projects, and to prefer above all to the modeſt and ſure ſociety of good farmers, plain citizens, honeſt artiſans, that of diſtinguiſhed perſonages, who ſpeculate ſo patriotically on the public funds, on the lands and paper of the ſtate, I know not if the French republic can find for you at this day, ſuch a man in their boſom; but in all events, ſir, I can aſſure you, that I will preſs very ſtrongly, its govern-

ment, to *ſacrifice me without heſitation*, if this injuſtice offers the leaſt utility.

Accept my reſpects,

GENET.

NOTE. This letter was one among ſeveral others which were received at the Secretary of State's office in Philadelphia, there formed into a packet, Sept. 30, addreſſed to him, and forwarded by poſt to Virginia. By ſome accident of the poſt, they did not get on to him in Virginia, were returned to Philadelphia, and there received by him only the 2d day of December.

PHILADELPHIA, September 5th, 1793.

Mr. Jefferſon, Secretary of State, to Mr. Hammond, Miniſter Plenipotentiary of Great Britain.

SIR,

I AM honored with your's of Auguſt 30th: mine of the 7th of that month aſſured you, that meaſures were taking for excluding from all further aſylum in our ports, veſſels armed in them, to cruiſe on nations with whom we are at peace, and for the reſtoration of the prizes, the Lovely Laſs, Prince William Henry, and the Jane of Dublin, and that ſhould the meaſures for reſtitution fail in their effect, the Preſident conſidered it as incumbent on the United States, to make compenſation for the veſſels.

We are bound by our treaties with three of the belligerent nations, *by all the means in our power*, to protect and defend their veſſels and effects in our ports or waters, or on the ſeas near our ſhores, and to recover, and reſtore the ſame to the right owners, when taken from them. If all the means in our power are uſed, and fail in their effect, we are not bound by our treaties with thoſe nations, to make compenſation.

Though we have no ſimilar treaty with Great Britain, it was the opinion of the Preſident, that we ſhould uſe towards that nation, the ſame rule, which, under this article, was to govern us with the other nations; and even to extend it to the captures made *on the high ſeas*, and brought into our ports, if done by veſſels, which had been armed within them.

Having, for particular reaſons, forborne to uſe *all the means in our power*, for the reſtitution of the three veſſels mentioned in my letter of Auguſt 7th, the Preſident thought it incumbent on the United States, to make compenſation for them: and though nothing was ſaid in that letter, of other veſſels taken under like circumſtances, and brought in after the 5th of June, and *before the date of that letter*, yet, where the ſame forbearance had taken place, it was, and is his opinion, that compenſation would be equally due.

As to prizes made under the ſame circumſtances, and brought in *after the date of that letter*, the Preſident determined, that all the means in our power ſhould be uſed for their reſtitution. If theſe fail, as we

ſhould not be bound by our treaties, to make compenſation to the other powers, in the analogous caſe, he did not mean to give an opinion, that it ought to be done to Great Britain. But ſtill, if any caſes ſhall ariſe ſubſequent to that date, the circumſtances of which ſhall place them on ſimilar ground with thoſe before it, the Preſident would think compenſation equally incumbent on the United States.

Inſtructions are given to the governors of the different ſtates, to uſe all the means in their power, for reſtoring prizes of this laſt deſcription, found within their ports. Though they will, of courſe, take meaſures to be informed of them, and the general government has given them the aid of the cuſtom-houſe officers, for this purpoſe, yet you will be ſenſible of the importance of multiplying the channels of their information, as far as ſhall depend on yourſelf, or any perſons under your direction, in order that the governors may uſe the means in their power, for making reſtitution. Without knowledge of the capture, they cannot reſtore it. It will always be beſt to give the notice to them directly; but any information, which you ſhall be pleaſed to ſend to me alſo, at any time, ſhall be forwarded to them, as quickly as diſtance will permit.

Hence you will perceive, ſir, that the Preſident contemplates *reſtitution* or *compenſation*, in the caſes before the 7th of Auguſt, and *after* that date, *reſtitution*, if it can be effected by any means in our power: and that it will be important, that you ſhould ſubſtantiate the fact, that ſuch prizes are in our ports or waters.

Your liſt of the privateers illicitly armed in our ports, is, I believe, correct—

With reſpect to loſſes by detention, waſte, ſpoilation, ſuſtained by veſſels taken as before mentioned, between the dates of June 5th and Auguſt 7th, it is propoſed, as a proviſional meaſure, that the collector of the cuſtoms of the diſtrict, and the Britiſh conſul, or any other perſon you pleaſe, ſhall appoint perſons to eſtabliſh the value of the veſſel and cargo, at the times of her capture and of her arrival in the port into which ſhe is brought, according to the value in that port.

If this ſhall be agreeable, and you will be pleaſed to ſignify it to me, with the names of the prizes underſtood to be of this deſcription, inſtructions will be given accordingly to the collectors of the cuſtoms, where the reſpective veſſels are.

I have the honor to be, &c.

TH: JEFFERSON.

PHILADELPHIA, September 7, 1793.

SIR,

FINDING by the proteſts of ſeveral of the Conſuls of France:— by their advertiſements in the public papers, and other proceedings, and by other ſufficient teſtimony, that they claim, and are exerciſing, within the United States, a general admiralty juriſdiction, and in particular, aſſume to try the validity of prizes, and to give ſentence thereon, as judges of admiralty; and moreover, that they are under-

taking to give commiſſions within the United States, and to enliſt, or encourage the enliſtment of men, natives or inhabitants of theſe ſtates, to commit hoſtilities on nations with whom the United States are at peace, in direct oppoſition to the laws of the land. I have it in charge, from the Preſident of the United States, to give notice to all the conſuls and vice-conſuls of France, in the United States, as I hereby do to you, that if any of them ſhall commit any of the acts before mentioned, or aſſume any juriſdiction not expreſsly given by the convention between France and the United States, the Exequatur of the conſul ſo tranſgreſſing, will be immediately revoked, and his perſon be ſubmitted to ſuch proſecutions and puniſhments as the laws may preſcribe for the caſe.

I have the honor to be, &c.

TH: JEFFERSON.

Citizen Francois Dupont, Conſul, Philadelphia.
Citizen Moiſſonier, Vice Conſul, Maryland.
Citizen Mangourit, Conſul, Charleſton.
The citizen Hauterive, Conſul from the Republic of France, at New-York.

PHILADELPHIA, September 9th, 1793.

Mr. Jefferſon, Secretary of State, to Mr. Genet, Miniſter Plenipotentiary of France.

SIR,

IN my letter of June 25th, on the ſubject of the ſhip William, and generally of veſſels ſuggeſted to be taken within the limits of the protection of the United States, by the armed veſſels of your nation, I undertook to aſſure you, it would be more agreeable to the Preſident, that ſuch veſſels ſhould be detained, under the orders of yourſelf, or the Conſuls of France, than by a military guard, until the government of the United States ſhould be able to enquire into, and decide on the fact. In two ſeparate letters, of the 29th of the ſame month, I had the honor to inform you of the claims, lodged with the executive, for the ſame ſhip William, and the brig Fanny;—to encloſe you the evidence, on which they were founded, and to deſire, that if you found it juſt, you would order the veſſels to be delivered to the owners, or if overweighed, in your judgment, by any contradictory evidence which you might have or acquire, you would do me the favour to communicate that evidence, and that the Conſuls of France might retain the veſſels in their cuſtody, in the mean time, until the Executive of the United States ſhould conſider and decide finally on the ſubject.

When that mode of proceeding was conſented to for your ſatisfaction, it was by no means imagined it would have occaſioned ſuch delays of juſtice to the individuals intereſted. The Preſident is ſtill without information, either that the veſſels are reſtored, or that you have any evidence to offer as to the place of capture. I am therefore, Sir, to repeat the requeſt of early information on this ſubject, in order that

if any injury has been done thoſe intereſted, it may be no longer aggravated by delay.

The intention of the letter of June 25th, having been to permit ſuch veſſels to remain in the cuſtody of the Conſuls, inſtead of that of a military guard, (which in the caſe of the ſhip William, appeared to have been diſagreeable to you) the indulgence, was, of courſe, to be underſtood, as going only to caſes where the executive might take or keep poſſeſſion with a military guard; and not to interfere with the authority of the courts of juſtice, in any caſe wherein they ſhould undertake to act. My letter of June 29th, accordingly, in the ſame caſe of the ſhip William, informed you, that no power in this country could take the veſſel out of the cuſtody of the courts, and that it was only becauſe they decided not to take cognizance of that caſe, that it reſulted to the Executive to interfere in it.

Conſequently this alone put it in their power to leave the veſſel in the hands of the Conſul. The courts of juſtice exerciſe the ſovereignty of this country, in judiciary matters, are ſupreme in theſe, and liable neither to control nor oppoſition from any other branch of the government. We learn, however, from the encloſed paper, that the Conſul of New-York, in the firſt inſtance, and yourſelf in a ſubſequent one, forbid an officer of juſtice to ſerve the proceſs with which he was charged from his court, on the Britiſh brig William Tell, taken by a French armed veſſel within a mile of our ſhores, as has been depoſed on oath, and brought into New-York, and that you had even given orders to the French ſquadron there to protect the veſſel againſt any perſon who ſhould attempt to take her from their cuſtody. If this oppoſition were founded, as is there ſuggeſted, on the indulgence of the letters before cited, it was extending that to a caſe not within their purvieu; and even had it been preciſely the caſe to which they were to be applied, is it poſſible to imagine you might aſſert it, within the body of the country, by force of arms?

I forbear to make the obſervations which ſuch a meaſure muſt ſuggeſt, and cannot but believe, that a moment's reflexion will evince to you the depth of the error committed in this oppoſition to an officer of juſtice, and in the means propoſed to be reſorted to in ſupport of it.

I am therefore charged, to declare to you expreſsly, that the Preſident expects and requires, that the officer of juſtice be not obſtructed in freely and peaceably ſerving the proceſs of his court, and that, in the mean time, the veſſel and her cargo be not ſuffered ſo depart, till the judiciary, if it will undertake it, or himſelf, if not, ſhall decide whether the ſeizure has been made within the limits of our protection.

I have the honour to be, &c.

TH: JEFFERSON.

PHILADELPHIA, September 9th, 1793.

Mr. Jefferſon, Secretary of State, to Mr. Hammond, Miniſter Plenipotentiary of Great Britain.

SIR,

I HAVE the honor to acknowledge the receipt of your two memorials, of the 4th and 6th inſtant, which have been duly laid before the Preſident of the United States.

You cannot be uninformed of the circumſtances which have occaſioned the French ſquadron, now in New-York, to ſeek an aſylum in the ports of the United States. Driven from thoſe where they were on duty, by the ſuperiority of the adverſe party, in the civil war which has ſo unhappily afflicted the colonies of France, filled with the wretched fugitives from the ſame ſcenes of diſtreſs and deſolation, without water or proviſions for the ſhorteſt voyage, their veſſels ſcarcely in a condition to keep the ſea at all, they were forced to ſeek the neareſt ports in which they could be received and ſupplied with neceſſaries. That they have ever been out again to cruiſe, is a fact we have never heard, and which we believe to be impoſſible, from the information received of their wants, and other impediments to active ſervice. This caſe has been noted ſpecially, to ſhew, that no inconvenience could have been produced to the trade of the other belligerent powers, by the preſence of this fleet in our harbours.—I ſhall now proceed to more general ground.

France, England, and all other nations, have a right to cruiſe on our coaſts; a right, not derived from our permiſſion, but from the law of nature. To render this more advantageous, France has ſecured to herſelf, by treaty with us (as ſhe has alone alſo, by a treaty with Great Britain, in the event of a war with us or any other nation) two ſpecial rights.—1ſt. Admiſſion for her prizes and privateers into our ports. This, by the XVIIth and XXIId articles, is ſecured to her, excluſively of her enemies, as is done for her in the like caſe by Great Britain, were her preſent war with us, inſtead of Great Britain. 2d. Admiſſion for her public veſſels of war into our ports, in caſes of ſtreſs of weather, pirates, enemies, or other urgent neceſſity, to refreſh, victual, repair, &c. This is not excluſive: As we are bound by treaty to receive the public armed veſſels of France, and are not bound to exclude thoſe of her enemies, the executive have never denied the ſame right of aſylum, in our ports, to the public armed veſſels of your nation. They, as well as the French, are free to come into them, in all caſes of weather, pirates, enemies, or other urgent neceſſity, and to refreſh, victual, repair, &c. And ſo many are theſe urgent neceſſities, to veſſels far from their own ports, that we have thought enquiries into the nature, as well as the degree of their neceſſities which drive them hither, as endleſs as they would be fruitleſs; and therefore have not made them. And the rather, becauſe there is a third right, ſecured to neither by treaty, but due to both on the principles of hoſpitality between friendly nations,—that of coming into our ports, not *under the preſſure of urgent neceſſity*, but whenever their comfort or convenience

induced them.—On this ground alſo, the two nations are on a footing.

As it has never been conceived, that either would detain their ſhips of war in our ports, when they were in a condition for action, we have never conceived it neceſſary to preſcribe any limits to the time of their ſtay. Nor can it be viewed as an injury to either party, to let their enemies lie idle in our ports, from year's end to year's end, if they chooſe it. Thus then, the public ſhips of war of both nations enjoy a perfect equality in our ports—1ſt, In caſes of urgent neceſſity—2d, In caſes of comfort or convenience—And 3d, in the time they chooſe to continue—And all a friendly power can aſk from another is, to extend to her the ſame indulgencies which ſhe extends to other friendly powers. And though the admiſſion of the prizes and privateers of France, is excluſive, yet it is the effect of treaty, made long ago for valuable conſiderations, not with a view to the preſent circumſtances, nor againſt any nation in particular, but all in general; and may, therefore, be faithfully obſerved, without offence to any; and we mean faithfully to obſerve it. The ſame excluſive article has been ſtipulated, as was before obſerved, by Great Britain in her treaty with France, and indeed is to be found in the treaties between moſt nations.

With reſpect to the uſurpation of admiralty juriſdiction by the conſuls of France, within theſe ſtates, the honor and rights of the ſtates themſelves, were ſufficient motives for the Executive to take meaſures to prevent its continuance, as ſoon as they were apprized of it. They have been led, by particular conſiderations, to await the effect of theſe meaſures, believing they would be ſufficient; but finding, at length, they were not, ſuch others have been lately taken, as can no longer fail to ſuppreſs this irregularity completely.

The Preſident is duly ſenſible of the character of the act of oppoſition made to the ſervice of legal proceſs on the brig William Tell, and he preſumes, the repreſentations made on that ſubject, to the Miniſter of France, will have the effect of opening a free acceſs to the officer of juſtice, when he ſhall again preſent himſelf with the precept of his court.

I have the honor to be, &c.

TH: JEFFERSON.

PHILADELPHIA, September 9th, 1793.

Mr. Jefferſon, Secretary of State, to Mr. Van Berckel, Reſident of the United Netherlands.

SIR,

I HAVE the honor how to acknowledge the receipt of your memorial of the 5th inſtant.

You cannot be uninformed of the circumſtances which have occaſioned the French ſquadron, now in New-York, to ſeek an aſylum in the ports of the United States; driven from thoſe where they were on duty, by the ſuperiority of the adverſe party in the civil war which has ſo unhappily afflicted the colonies of France, filled with the wretched fugitives from the ſame ſcenes of diſtreſs and deſolation, without water

or provisions for the shortest voyage, their vessels scarcely in a condition to keep the sea at all, they were forced to seek the nearest ports in which they could be received and supplied with necessaries. That they have ever been out again to cruise, is a fact we have never heard, and which we believe to be impossible, from the information received of their wants, and other impediments to active service. This case has been noted specially, to shew that no inconvenience can have been produced to the trade of the other belligerent powers, by the presence of this fleet in our harbours. I shall now proceed to more general ground.

France, Holland, and all other nations, have a right to cruise on our coasts; a right not derived from our permission, but from the law of nature. To render this more advantageous, France has secured to herself, by treaty with us, two special rights—1st. Admission for her prizes and privateers into our ports. This, by the XVIIth and XXIId articles of our treaty, is secured to her, exclusively of her enemies, and there is a salvo of it in her favour, in our treaty with the United Netherlands.—2d. Admission for her public vessels of war into our ports, in cases of stress of weather, pirates, enemies, or other urgent necessity, to refresh, victual, repair, &c.—This is not exclusive, and is secured also to the United Netherlands, by our treaty with them, and their public armed vessels are accordingly free to come into our ports, in all cases of weather, pirates, enemies, or other urgent necessity, and to refresh, victual, repair, &c. And so many are these urgent necessities, to vessels far from their own ports, that we have thought enquiries into the nature, as well as the degree, of the necessities which drive them hither, as endless as they would be fruitless, and therefore have not made them: And the rather, because there is a third right, secured to neither by treaty, but due to both on the principles of hospitality between friendly nations; that of coming into our ports, not *under the pressure of urgent necessity*, but whenever their comfort or convenience inclines them. On this ground also the two nations are on a footing.

As it has never been conceived, that either would detain their ships of war in our ports, when they were in a condition for action, we have never conceived it necessary to prescribe any limits to the time of their stay. Nor can it be viewed as an injury to either party, to let their enemies lie idle in our ports, from year's end to year's end, if they choose it. Thus then, the public ships of war, of both nations enjoy a perfect equality in our ports—1st, In cases of urgent necessity—2d, In cases of comfort or convenience—And 3d, in the time they choose to continue; and all a friendly power can ask of another is, to extend to her the same indulgencies which she extends to other friendly powers. And though the admission of the prizes and privateers of France, is exclusive, yet it is the effect of treaty, made long ago, for valuable considerations, not with a view to present circumstances, nor against any nation in particular, but all in general, and may, therefore, be faithfully observed, without offence to any; and we mean faithfully to

obſerve it. And this has been expreſsly admitted, as was before obſerved, in our treaty with the United Netherlands.

With reſpect to the uſurpation of admiralty juriſdiction by the conſuls of France, within theſe ſtates, the honor and rights of the ſtates themſelves, were ſufficient motives for the executive to take meaſures to prevent its continuance, as ſoon as they were appriſed of it. They have been led, by particular conſiderations, to await the effect of theſe meaſures, believing they would be ſufficient; but finding, at length, they were not, ſuch others have been lately taken, as can no longer fail to ſuppreſs this irregularity completely.

I have the honour to be, &c.

TH: JEFFERSON.

NEW-YORK, *6th September.*
2d year of the French Republic.

The Citizen Genet, Miniſter Plenipotentiary from the Republic of France to the United States, to Mr. Jefferſon, Secretary of State of the United States.

SIR,

I HAVE juſt diſcovered the moſt horrible conſpiracy which has been formed againſt the arms of the French republic: I have juſt diſcovered the whole clew and all the proofs of the infernal plot, which for theſe two months detained the French ſquadron in your ports, in a ſtate of nullity;—of that plot which threatened, not only the ſafety of our veſſels, but alſo that of our colonial poſſeſſions. The traitors Galbaud and Tanguy, and ſeveral other villains, not ſatisfied with having cauſed, at Saint Domingo, the ſpilling of the blood of an immenſe number of people;—not ſatisfied with having there cauſed the loſs of a Milliard to the Republic, concerted here, at Baltimore, and at Philadelphia, the project of bringing our forces to concur with them in the execrable plan meditated by theſe men, whoſe crimes have cauſed them to flee their country, to return to St. Domingo, for the purpoſe of renewing there the horrors and misfortunes which they have already had committed in that place; I have been informed that the ſucceſs which the coloniſts of this place promiſed to themſelves was nothing leſs than founded, as was that, the execution of which has lately been attempted in the windward iſlands, upon a propoſed alliance with the enemies, now at war with the republic,—the Engliſh and the Spaniards.

France, Sir, in ſuch circumſtances, has required in Europe of the neighbouring powers, that they oppoſe every preparation which may be attempted by the emigrants, in their dominions, againſt her ſafety. She expects from a friendly and allied government, that it will be ſufficient to notify them of the plots forming againſt her in their own territory, in order to obtain from them all proper means to ſuppreſs them. I have affected the diſarming of the veſſels which was in the moſt alarming ſtate of rebellion; but the inſtigators of it have fled, and I learn that they are ſpreading over the continent, where they cannot but be very injurious, as well to the tranquillity of this, as to the intereſt of their own country.

I therefore requeſt the federal government to take the moſt ſpeedy and efficacious meaſures to have them arreſted, and thereby prevent them from committing the crimes which they might attempt. The governor and magiſtracy of New-York have iſſued warrants againſt Galbaud, Tanguy, Conſcience, and Bonne; but they have each eſcaped the activity of the perſons ſent to apprehend them. The traitors fly the puniſhment reſerved for their crimes, and doubtleſs will employ themſelves on new means of executing the plots they have formed againſt France. I have poſitive information that they are ſtill within the confines of the United States, and as the warrants of New-York cannot be ſerved out of the bounds of the ſtate, I particularly requeſt from the federal government againſt the ſaid Galbaud, Tanguy, Conſcience and Bonne, of whom I ſubjoin a deſcription, orders of arreſt, which ſhall extend throughout the continent of the United States; I alſo requeſt that the moſt ſtrict and ſpeedy attention may be had relative to plots I have mentioned.

May this ſignal act, leaving no doubt as to the ſincerity of the wiſhes of the government of the United States, for the ſucceſs of the French Republic, cauſe all the traitors to tremble, whom my eſteem for your country has led me perhaps too much to deſpiſe, and who avail themſelves of the acceſs which the kindneſs and hoſpitality of your nation offer them, to conſpire within its very boſom, and in the circle of its moſt elevated perſonages, againſt France, and the general freedom of nations.

GENET.

PHILADELPHIA, *September* 12, 1793.

Mr. Jefferſon, Secretary of State, to Mr. Genet, Miniſter Plenipotentiary of France.

SIR,

I HAVE the honor of your letter of the 6th inſtant, and can aſſure you with real truth, of the readineſs and zeal with which the executive will concur, in preventing within the limits of the United States, any preparation of hoſtilities againſt France, or her colonies, as far as this can be effected by the extention of that portion of the public power, with which they are inveſted by the laws. Your letter requeſts the arreſt and delivery of Tanguy, Galbaud, Conſcience, and Bonne, eſcaped from the ſhip Jupiter, and from the puniſhment of crimes committed againſt the republic of France, and alſo that neceſſary meaſures be taken, to prevent the carrying into execution, certain plots formed by them and others againſt their country. Theſe two requiſitions ſtand on different ground. The laws of this country take no notice of crimes committed out of their juriſdiction. The moſt atrocious offender coming within their pale, is received by them as an innocent man, and they have authoriſed no one to ſeize or deliver him. The evil of protecting malefactors of every dye, is ſenſibly felt here, as in other countries; but until a reformation of the criminal codes of moſt nations, to deliver fugitives from them, would be to become their accomplices: the former, therefore, is viewed as the leſſer

evil. When the conſular convention with France was under conſideration, this ſubject was attended to: but we could agree to go no further than is done in the IXth article of that inſtrument, where we agree mutually to deliver up "captains, officers, mariners, ſailors, and all other perſons being part of the crews of veſſels," &c. unleſs therefore the perſons before named, be part of the crew of ſome veſſel of the French nation, no perſon in this country is authoriſed to deliver them up, but on the contrary, they are under the protection of the laws. If they are part of the crew of a veſſel they are to be delivered up, but then it happens that the diſtrict judge of each ſtate, is by the law of Congreſs, made the competent perſon to execute this article of the convention, and conſequently each within his own ſtate, and no one over all the ſtates, ſo that as criminals they cannot be given up, and if they be of the crew of a veſſel, the act of Congreſs has not given authority to any one officer to ſend his proceſs through all the ſtates of the Union. The other branch of your requeſt is more completely provided for by the laws, which authoriſe coercions as to the expeditions formed in the territory of the United States againſt nations with whom they are at peace. If, therefore, you will be pleaſed to give me ſuch information as to perſons and places as may indicate to what points the vigilance of the officers is to be directed, proper meaſures will be immediately taken for preventing every attempt to make any hoſtile expedition from theſe ſtates againſt any of the dominions of France, the ſtronger the proofs you can produce, and the more pointed as to perſons, the ſtronger will be the means of coercion which the laws will allow to be uſed.

I have not yet yet laid this matter before the Preſident, who is abſent from the ſeat of government, but to ſave delay which might be injurious, I have taken the liberty, as the caſe is plain, to give you this *proviſory* anſwer: I ſhall immediately communicate it to the Preſident, and if he ſhall direct any thing in addition, or alteration, it ſhall be the ſubject of another letter. In the mean time, I may venture to let this be conſidered as a ground for your proceeding.

I have the honor to be, &c.

TH: JEFFERSON.

PHILADELPHIA, *September* 12, 1793.

Mr. Jefferſon, Secretary of State, to Mr. Hamilton, Secretary of the Treaſury.

SIR,

I HAVE the honor to encloſe you a paper delivered me by Mr. Bournonville, on the part of the Miniſter of France, reclaiming againſt the demand of tonnage on the veſſels which came hither from the Weſt-Indies, in their late calamity—It is urged, that they were driven out of their harbours by ſuperior force, and obliged to put to ſea without water or ſtores, and therefore, to make the firſt ports where they could be relieved; which conſtitute, in their opinion, thoſe circumſtances of diſtreſs and neceſſity, which exempt veſſels from the

payment of tonnage. This case belongs to your department. I take the liberty, in the absence of the President, and to save time, to transmit it to you directly, for your consideration.

I have the honor to be, &c.

TH: JEFFERSON.

NEW-YORK, 24 *September*, 1793.
2d year of the Republic of France.

Citizen Genet, Minister Plenipotentiary of the Republic of France, to Mr. Jefferson, Secretary of State of the United States.

SIR,

I AM charged to communicate to you the decree rendered by the National Convention, on the 13th of April last, by which they declare, "That the French people shall not intermeddle, in any manner, with the government of other powers, but that they will not suffer any power to intermeddle with the interior administration of the Republic, and pronouncing the penalty of death on whoever shall propose to negociate or treat with enemy powers, who shall not have solemnly acknowledged the independence and sovereignty of the French Republic."

When the French citizens, by the example of those of America, have thought proper to establish a government founded on the rights of man, it was to be expected, that they would find enemies in all those, ambitious and eager for authority—in all the cabinets in which *Machiavelisme* is honored; and when the French people, soured, fatigued with the dark machinations of their enemies, their public attacks—the insults contained in the acts of the despotic courts—of governments tending to monarchy, have thought proper to repel these perfidies, by acts marked with the stamp of loyalty, greatness, philosophy, even at the instant their vile enemies reported that they wished to annihilate all the governments—to destroy all authority—to spread trouble and confusion throughout—as if to oppose a provocation, was not a natural right; as if a great people, victim of the particular hatred of the government of another people, had not the right to retaliate their fears, to enlighten them as to their errors, and to endeavour, by these pleasant and just means, to ward off great misfortunes, even to prevent war. Be this as it may, the National Convention has thought it a duty to assure the friends of humanity, and to shut the mouths of their enemies, to proclaim the intentions of the French people, whose agents will shew, in every circumstance, that they know as well how to respect the laws of other people, as to defend those of the French nation, and to maintain their rights.

Accept my respect,

GENET.

MONTICELLO, IN VIRGINIA, *Oct.* 2, 1793.

Mr. Jefferson, Secretary of State, to Mr. Genet, Minister Plenipotentiary of France.

SIR,

I WAS honored, yesterday, with your letter of the 14th of September, covering the commission of the Citizen Dannery, to be Consul of the Republic of France, at Boston. I now lay the same, by letter, before the President, to obtain his Exequatur, which will be forwarded to you with the commission. The exequatur is made exactly commensurate with the commission; but I apprehend, that neither is so with the intentions of the Executive Council, who probably did not mean to confine the functions of Mr. Dannery to the township of Boston. Should this be the case, you will be sensible of the expediency of obtaining for him, as early as possible, a new commission, defining the limits of his office, as extensively as they mean he shall exercise them, to which a new exequatur being adapted, their intentions will be fulfilled.

Satisfied that errors in the address of their commissions, proceed from a want of intimacy with our constitution; no difficulty has been made, on that account, in the case of the present commission. But it is my duty to remark to you, that, by our constitution, all foreign agents are to be addressed to the President of the United States, no other branch of the government being charged with the foreign communications. I have no doubt you will draw the attention of your government to this circumstance of form in future commissions.

I have the honor to be, &c.

TH: JEFFERSON.

GEORGE WASHINGTON, PRESIDENT OF THE UNITED STATES OF AMERICA,

TO ALL WHOM IT MAY CONCERN:

THE Citizen Dannery, having produced to me his commission, as Consul for the Republic of France, at Boston, I do hereby recognize him as such, and do declare him free to exercise and enjoy such functions, powers and privileges as are allowed to Consuls of the French Republic by the laws, treaties and conventions, in that case made and provided.

In Testimony whereof, I have caused these letters to be made patent, and the seal of the United States to be hereunto affixed.

Given under my hand, the ——— day of ———, in the year of our Lord one thousand seven hundred and ninety-three, and Independence of the United States of America the eighteenth.

By the President,

TH: JEFFERSON.

October 3d, 1793.

Mr. Jefferson, Secretary of State, to Mr. Duplaine, Vice Conſul of France, at Boſton.

Sir,

AUTHENTIC information being received, that, under colour of your office, as vice conſul of the Republic of France, you have, with an armed force, oppoſed the courſe of the laws of the land, and reſcued out of the hands of on officer of juſtice, a veſſel which he had arreſted by authority of a precept from his court. The Preſident of the United States has conſidered it as inconſiſtent with the authority of the laws, and the reſpect which it is his office to enforce to them, that you ſhould any longer be permitted to exerciſe the functions, or enjoy the privileges, of vice conſul in theſe United States; and has therefore thought proper, by the letters patent, of which I encloſe you a copy, to revoke the exequatur heretofore granted you, and to make the ſame public. I have the honor alſo, to encloſe copies of the evidence whereon this meaſure is founded.

And to be, &c.

Th: JEFFERSON.

UNITED STATES OF AMERICA.

Diſtrict of Maſſachuſetts.

THE PRESIDENT OF THE UNITED STATES OF AMERICA, ſs.

To the Marshal of our District of Massachusetts, or his Deputy.

GREETING:

WE command you, that you replevy the goods and chattels following, viz. A certain ſchooner called the Greyhound, of the burden of forty tons, or thereabouts, whereof John Henry Hill was late maſter, together with her boat, rigging, tackle, apparel, and furniture whatſoever, alſo the cargo of ſaid ſchooner, now on board the ſame, conſiſting of ninety-five thouſand mackarel, in bulk, equal to four hundred barrels—The ſame goods and chattels belonging to Alexander Brymer and Andrew Belcher, of Halifax, in the province of Nova Scotia, merchants, now taken and detained by Lewis Guilliaume Felix Laumoſne, of Boſton, in ſaid diſtrict, at Boſton harbour, ſo called in Boſton aforeſaid; and them deliver unto the ſaid Brymer and Belcher; provided the ſame are not taken and detained upon mean proceſs, warrant of diſtreſs, or upon execution, as the property of the ſaid Brymer and Belcher; and ſummon the ſaid Lewis, that he app[ear] before our juſtices of our circuit court, next to be holden at Bo[ston] within and for our diſtrict of Maſſachuſetts, on the twelfth [day of] October next, to anſwer unto the ſaid Brymer and Belcher, [in a plea] of replevin, for that the ſaid Lewis, on the twenty-firſt day [of Auguſt] inſtant, at ſaid Boſton, unlawfully, and without any juſt [liable cauſe,] took the goods and chattels of the ſaid Brymer and B[elcher as afore-]

ſaid, and them unlawfully detained to this day, to the damage of the ſaid Brymer and Belcher, as they ſay, the ſum of two thouſand dollars: Provided, they the ſaid Brymer and Belcher ſhall give bond to the ſaid Lewis, with ſufficient ſurety or ſureties, in the ſum of four thouſand dollars, being twice the value of the ſaid goods and chattels, to proſecute the ſaid replevin to final judgment, and to pay ſuch damages and coſts as the ſaid Lewis ſhall recover againſt him; and alſo to return and reſtore the ſame goods and chattels, in like good order and condition as when taken, in caſe ſuch ſhall be the final judgment. And have you there this writ, with your doings herein, together with the bond you ſhall take. Witneſs John Jay, Eſquire, at Boſton, this twenty-firſt day of Auguſt, in the year of our Lord one thouſand ſeven hundred and ninety-three.

N. GOODAL, Clerk.

A true copy.

Atteſt, SAML. BRADFORD, Dy. Marſl.

I THOMAS AMORY, jun. *depoſe:*

THAT on the 22d day of Auguſt, at the requeſt of C. Gore, Eſq. and Gen. Brooks, I went with the latter on board the frigate La Concorde, introduced him to the Capt. and informed Capt. Van Dogen, that Gen. Brooks was marſhal of this diſtrict, and waited on him relative to the ſchooner which Col. Bradford had attempted to replevin, but interrupted in the ſervice of his precept by an armed force, ſent by his order from on board the frigate, that Gen. Brooks wiſhed to converſe with him, and the conſul on the ſubject when convenient—ſoon after the company withdrew, when Gen. Brooks in preſence of the captain, conſul, juſtice Cooper and myſelf, told the captain that Col. Bradford his deputy, had been interrupted in ſerving a precept on the ſchooner Greyhound, taken by the privateer, pointing to the veſſel under the frigate's ſtern, by an armed force under his orders, and that he had waited on him to demand a ſurrender of the veſſel to Col. Bradford his deputy marſhal: when the captain expreſſed his diſlike to the taking the Americans out of the privateer and prizes the day before, to Col. Bradford, ſerving the precept—that he received orders from the conſul to withhold and protect, that it was his duty and he certainly ſhould protect her—the conſul ſaid that any veſſel wearing the national flag of the Republic of France, of courſe was entitled to his protection; when Gen. Brooks put this caſe, ſhould a French merchant-man be attached in this port by a citizen of the United States, would you conſider it your duty to take that veſſel under your protection againſt the proceſs? The captain anſwered in the affirmative—the captain afterwards told me that he had written to the Governor, and that if he demanded the prize, he muſt of courſe relinquiſh her, forwarding the Governor's reply with copy of his letter to the miniſter of France. The conſul then appointed to meet at his lodgings in the evening, where I accompanied Gen. Brooks, and after much converſation, the conſul ſaid, he did not

wiſh to oppoſe force to the execution of our laws, that he left the frigate in a great hurry, or he ſhould then have given orders to Capt. Van Dogen to withdraw his men out of the prize, and leave her to the controul of Col. Bradford, and that he would then do it, but ſhould at the ſame time proteſt againſt the buſineſs. At that moment Mr. Jutau came into the room, and ſaid a few words to the conſul in French, the conſul turned about and ſaid he ſhould not relinquiſh the veſſel; when I reminded him of what he had juſt before promiſed—he ſaid again, he was ſorry for the difficulty. The marſhal then ſaid, that a great deal had paſſed on the ſubject, and he now wiſhed a categorical anſwer to his demand—the general wiſhed to know if he was to underſtand, that he, the conſul, refuſed to allow Col. Bradford to take charge of the veſſel, the Conſul ſaid he did not, certainly did not, wiſh to oppoſe force to the officers of law in this country. Said he wiſhed then to write, and promiſed to anſwer, concluſively, in the morning. Friday morning, Auguſt 24, 8 o'clock. This morning, Gen. Brooks and myſelf waited on the conſul, when informed us, he had concluded to keep poſſeſſion of the veſſel, and Gen. Brooks informed him he ſhould make a repreſentation of the buſineſs to the government. I then handed the conſul an open letter from C. Gore, Eſq. and took leave with Gen. Brooks—a copy of which letter is hereunto annexed.

THOMAS AMORY, jun.

Boston, September 10th, 1793.

The conſul did, in my preſence, read part, or the whole of the letter referred to, and made no reply.

THOMAS AMORY, jun.

Sworn to, September 10th, 1793.

Before J. Lowell, *Judge of the Diſtrict Court of Maſſachuſetts Diſtrict.*

Boston, 22d Auguſt, 1793.

Sir,

I HAVE been informed that the marſhal of the diſtrict of Maſſachuſetts, yeſterday, in obedience to a precept from the Circuit Court of the United States, replevied a veſſel in this harbour; that after he had ſo replevied the veſſel, a number of armed men, acting by your order, and under your authority, forcibly took from him the veſſel, and now reſiſts the execution of his precept, as Attorney for the United States within the diſtrict of Maſſachuſetts. I do demand of you that you remove the force and obſtruction which you oppoſe to the laws of the United States.

I am, Sir,

Your obedient ſervant.

Mr. Duplantz, *Vice-Conſul.*

I Rufus Green Amory, of Boſton, in Maſſachuſetts Diſtrict, of lawful age, teſtify and ſay,

THAT on the twenty-ſecond day of Auguſt laſt, being informed that the ſchooner Greyhound, againſt which I had iſſued a writ of replevin, in favour of Meſſrs. Brymer and Belcher, returnable to the next circuit-court, for ſaid diſtrict, was taken from Col. Bradford, the deputy marſhal, by ſome French people, I went on board the ſhip of war called the Concord, commanded by Captain Van Dogen, to enquire if the ſaid ſchooner was under his cuſtody—the ſaid captain informed me that ſhe was under his protection. I told him that the civil officer, Colonel Bradford, as marſhal of the diſtrict, had gone on board the ſaid ſchooner to replevy her under proceſs of law. That on the evening before, wh" the ſaid marſhal was on board ſaid ſchooner, by virtue of his precept, ſome armed people went on board, and againſt the will of ſaid marſhal, had brought ſaid ſchooner near his ſhip, and I aſked him, if the ſame was done by his authority—the ſaid Captain Van Dogen told me, that ſome perſon had complained to him of an attempt to carry the ſaid ſchooner away from her anchorage in the night time, and that to prevent the ſame, he had ordered ſome of his people on board her, and had directed her to be brought nearer to his ſhip—where ſhe then was—I aſked him if he would deliver the ſchooner to the marſhal, and he ſaid that he ſhould not without orders from the conſul of France. I aſked him if the ſaid ſchooner was in his cuſtody before the marſhal had entered on board her—he ſaid that he had none of his people on board—but ſhe came into harbour under French colours as a prize, and that the captain of her had aſked his leave for anchorage where ſhe had come to, and, as being under a French commiſſion in public ſervice, he had conſidered the ſaid veſſel under his protection.

RUFUS G. AMORY.

September 10th, Sworn to, before

J. LOWELL, *Judge of the Diſtrict Court of Maſſachuſetts Diſtrict.*

I the ſaid Rufus Greene Amory, further teſtify, that ſaid Captain Van Dogen told me, that he had complained to the Governor concerning the attempt to carry away the ſaid ſchooner in the night time, without his leave. RUFUS G. AMORY.

I John Brooks, Marſhal of the Diſtrict of Maſſachuſetts, do teſtify and ſay,

THAT on the twenty-ſecond day of Auguſt laſt, being in Boſton, and finding that colonel Samuel Bradford, deputy marſhal for ſaid diſtrict, in ſerving a writ of replevin upon the ſchooner Greyhound, had been oppoſed by an armed force, acting under the orders of Captain Van Dogen, commander of the French frigate "La Concord," I went on board ſaid frigate, to demand of the captain the reſtoration of the ſaid ſchooner. Upon my opening to captain Van Dogen the object of my viſit, (which was done in the preſence of

Mr. Duplaine, the French conſul, Mr. Juſtice Cooper, and Mr. Thomas Amory) he diſcovered conſiderable warmth and diſpleaſure at ſome Americans having been taken from on board a French veſſel, as well as at the attempt of Col. Bradford to poſſeſs himſelf of a veſſel bearing the colours of France, while under the protection of a ſhip of force belonging to the French republic. As my object was to demand of Captain Van Dogen, reſtoration of the ſchooner aforeſaid, and to obtain from him a categorical anſwer, I avoided as much as poſſible the diſcuſſion of any ſubject irrelative thereto; and at length obtained from him a delaration, that as he had received his orders from the French conſul, for doing what he had done, and as it was his duty to obey the conſul, he could not ſurrender the ſchooner. That he was an officer, and muſt obey his orders. Immediately upon Captain Van Dogen having made the above mentioned declaration, which was done in preſence of the French conſul, the latter obſerved to me, that he thought it a pity that any difficulty ſhould ariſe about the ſchooner —that he believed, if he and myſelf were to take our papers, we could ſettle the whole affair in a few minutes, and propoſed that I ſhould meet him on ſhore in one hour. To this I agreed, and we met accordingly. The reſult, after more than an hour's converſation at this interview, was a propoſition for another the next morning at eight o'clock. At the time aſſigned, I again waited onthe conſul at his lodgings. Upon my entering the houſe, he informed me, that he had come to a determination about the ſchooner—that things ſhould remain as they then were—that he ſhould keep poſſeſſion of the ſchooner—that I muſt apply to the governor, and that if the governor did not do ſomething about it, he ſhould advertiſe the ſchooner in the newſpapers, and if in ſix days nobody proved a claim to her, he ſhould condemn her to the captors, or words to that effect.

I further teſtify, That, in the converſation with Capt. Van Dogen, he informed me, that by the laws of the French republic, it was the duty of commanders of the ſhips of the ſaid republic, when in foreign ports, where there were French conſuls, to obey the orders of ſuch conſuls—that the conſuls were admirals, or had the power of admirals, or words to that effect. Captain Van Dogen ſaid this in the preſence of the French conſul.

I further teſtify, That Mr. Duplaine the French Conſul told me, it had been his deſign to withdraw the armed force from the ſchooner Greyhound, and intimated to me that he would give an order to have ſaid force withdrawn—in which caſe, he ſaid he ſhould proteſt againſt the meaſures then purſuing by the government of the United States, but that he, the ſaid conſul, afterwards refuſed to withdraw ſaid force as above ſaid.

J. BROOKS.

Sworn to, *September* 10th, 1793, before
JOHN LOWELL, *Judge of the Diſtrict Court of Maſſachuſetts Diſtrict.*

UNITED STATES DISTRICT OF MASSACHUSETTS, *September 10th*, 1793.

THEN Thomas Amory, jun. Rufus Greene Amory, Nathaniel Byfield Lyde, and John Brooks, Eſquire, made oath to the truth of the annexed depoſitions, by them reſpectively ſubſcribed, in the preſence of Antoine Charbonet Duplaine, and declared, that they did not recollect any other material circumſtance relative to the matter in enquiry; and the annexed depoſition of Samuel Bradford is tranſcript of his depoſition taken under like circumſtances. Before

JOHN LOWELL, *Judge of the Diſtrict Court of Maſſachuſetts Diſtrict.*

I Nathl. Byfield Lyde, of lawful age, teſtify and ſay,

THAT on the evening of the twenty-firſt of Auguſt inſtant, at the requeſt of Samuel Bradford, Eſq. marſhal of Maſſachuſetts diſtrict, I went with him on board the ſchooner Greyhound, laying off the end of Long-wharf, in the harbour of Boſton. The ſaid Bradford went on board of ſaid ſchooner, as I underſtood to ſerve a writ of replevin againſt the ſaid ſchooner, which iſſued from a circuit court of ſaid diſtrict, in behalf of Meſſrs. Brimmer and Belcher of Halifax, Nova-Scotia, merchants; ſaid Bradford wanted my aſſiſtance in the ſervice of ſaid writ—we got on board juſt after nine o'clock, and ſaw one perſon on board, who appeared to be a Frenchman—Colonel Bradford made known to him, he had a proceſs againſt the ſaid veſſel, and enquired for the maſter—The ſaid Frenchman hailed a veſſel which appeared to be a privateer, and a perſon came on board, who ſaid, that he was prize-maſter of ſaid ſchooner—Mr. Bradford then made known to him that he had a precept or writ of replevin, and by virtue of that he had taken poſſeſſion of the ſchooner—The prize-maſter then requeſted that he might call for Mr. Jutau, who was ſaid to be on board the frigate Concord; ſoon after which Mr. Jutau came on board with ſome other perſons, the ſaid marſhal then made known to Mr. Jutau the purpoſe and authority by which he had come on board, ſaid Jutau explained the ſame to thoſe perſons on board ſaid ſchooner—Mr. Jutau ſoon after went on board the frigate; an officer and about twelve men came on board the ſchooner, from the frigate, all armed—The ſaid officer ſoon after, ordered the ſchooner to be removed near to the frigate—The marſhal told ſaid officer his authority by which he had taken poſſeſſion, and forbid him to move the ſaid ſchooner, this removal was between ten and eleven o'clock the ſame evening, ſhortly afterwards the French conſul with Mr. Jutau came on board—The marſhal then informed them by what authority he came on board, and had taken poſſeſſion of the ſchooner—The conſul then informed the marſhal, that he ſhould keep poſſeſſion of the ſchooner—The marſhal then told the ſaid conſul, he would not quit the ſchooner—the ſaid ſchooner for one or two days remained in poſſeſſion of the officer and armed men, contrary to the orders and will of the ſaid marſhal, but the marſhal remained on board of ſaid ſchooner—I was alſo on board the frigate in the morn-

ing of the 22d Auguſt, with Mr. Amory, attorney to and on the part of Meſſrs. Brimer and Belcher, when the captain informed ſaid Amory, he ſhould protect and retain ſaid ſchooner under his protection notwithſtanding the authority and doings of ſaid marſhal, as mentioned to him by Mr. Amory, who related the ſame to him.

NATHL. BYD. LYDE.

Sworn to, *September 10th*, 1793, before
JOHN LOWELL, *Judge of the Diſtrict Court of Maſſachuſetts Diſtrict.*

I SAMUEL BRADFORD, *Deputy Marſhal of the Diſtrict of Maſſachuſetts*, DO TESTIFY AND SAY,

THAT on Wedneſday the twenty-firſt day of Auguſt, at about ſeven of the clock, P. M. I was poſſeſſed of a writ, Brimer and Belcher, plaintiffs, in replevin, vs. Laumoſne, commanding to replevy the ſchooner called the Greyhound; that I immediately proceeded to ſerve the ſaid proceſs, and was accompanied on board the ſaid ſchooner, then lying in the harbour of Boſton, by captains Lyde and Hayman—We found only one man on board; I enquired for Mr. Laumoſne, the prize-maſter—The Frenchman hailed the privateer Rowland, and, at my requeſt, informed the people on board ſaid privateer, that an American had buſineſs with Mr. Laumoſne—The ſaid Laumoſne came on board, attended by the captain of the privateer—I read the precept to the prize-maſter, and explained to him the nature of the proceſs, and obſerved, that a bond was given to ſupport any damages that might ariſe from my taking poſſeſſion of the ſchooner—I added, that I was then in poſſeſſion of the ſchooner, and that, at a proper time, I ſhould remove ſaid veſſel to the wharf—The prize-maſter obſerved, that Mr. Jutau was then doing buſineſs on board the frigate La Concorde, and that he ſhould ſend for him—to which I conſented—ſoon after, Mr. Jutau came on board the ſchooner—I then informed him of the proceſs that I had againſt the ſaid ſchooner—read to him the writ—and obſerved, that I ſhould remove the veſſel as above ſtated—Mr. Jutau ſaid, that I had no right or authority to ſerve any writ after dark—That the veſſel belonged to the Republic of France, and could not be attached—and that ſhe was under the protection of the French Republic—and he made many other obſervations to the ſame effect—I replied, that as an officer of the government of the United States, I ſhould purſue ſtrictly the line of my duty—Mr. Jutau left the ſchooner, and told the prize-maſter to remain on board; after he was in the boat, to return to the frigate, I requeſted him to inform Mr. Laumoſne, that after the ſchooner was hauled to the wharf, I ſhould require him to go on ſhore—Mr. Jutau replied, that I might inform the prize-maſter myſelf, and that I muſt force him from the veſſel—In about half an hour after Mr. Jutau's departure on board the frigate, an officer came from thence on board the ſchooner, he was a lieutenant, and I heard him inform the prize-maſter, that I ſhould not remove the veſſel—In about an hour

after this, a body of about twelve armed men (marines) came on board the ſchooner, from the frigate—The lieutenant read a paper, which I ſuppoſe were orders—At about half paſt eleven o'clock, I addreſſed the lieutenant, and after obſerving to him, that he appeared intereſted in the buſineſs in which I was engaged, I aſſured him, that my writ was againſt Mr. Laumoſne, and that I had nothing to ſay to him (the lieutenant) relative thereto, and I added, that I had taken poſſeſſion of the ſchooner by virtue of my office, as deputy marſhal, and that I ſhould proceed to remove her—He replied, that he ſhould obey the orders that *he* had received from his captain, which was, to remove the ſaid ſchooner near to the frigate—The lieutenant then ordered the veſſel to be removed, and we were hauled between the frigate and privateer Rowland. I told the lieutenant, that what he did, he muſt anſwer for, and I forbid him, at his peril, to remove the ſaid ſchooner. I aſked the ſaid lieutenant, if he had brought the armed force to prevent my removing the ſchooner; he replied in the affirmative. Finding myſelf oppoſed in the progreſs of ſerving my precept, by an armed force, I diſmiſſed the men who were on board to give me aid in conducting the ſchooner to the wharf: Some time after, the lieutenant retired from the ſchooner, and took off his men, excepting a corporal and four, whom, he obſerved, he ſhould leave on board, to take care of ſaid ſchooner. At about twelve o'clock, A. M. Mr. Conſul Duplaine, Mr. Jutau the chancellor, and Mr. Vancrede, in going on ſhore from the frigate, came on board the ſchooner.—We converſed on the ſubject—I went over the buſineſs again, and told Mr. Duplaine, that I was oppoſed by an armed force; but that I ſhould not quit the veſſel. The Conſul ſaid, that he ſhould keep poſſeſſion; but added, that if I went on ſhore, I might return on board in the morning, and that the veſſel would remain in the ſame ſituation. From the converſation between Mr. Duplaine, Mr. Jutau, the lieutenant of the frigate, the prize-maſter, and myſelf, I had no doubt, but that the captain of the frigate acted under the orders of Mr. Duplaine. A guard was regularly maintained on board the ſchooner, from Wedneſday night till about twelve o'clock, P. M. on Saturday the 24th, when a boat from the frigate, took from the ſchooner the guard—The corporal, previous to his quitting, hailed the ſhore, or the privateer Rowland, and a Frenchman came on board the ſchooner, after which the guard retired; ſoon after, the frigate being then under way, and having procured aſſiſtance from the town, I directed the people to weigh the anchors of the ſchooner, and conduct me to the wharf, where I arrived at one o'clock—having legally executed my precept.

I ſoon after ſaw the conſul, who ſaid, "Then, Sir, you have quitted the veſſel—You have then left her, I ſuppoſe." To which I replied, that I had left her at the wharf, had executed my precept, and that I ſhould take proper care of the ſaid ſchooner—The conſul appeared ſurpriſed. SAML. BRADFORD.

BOSTON, *September 10th*, 1793.

Sworn to, September 10th, 1793, before

J. LOWELL, *Judge of the Diſtrict of Maſſachuſetts.*

GEORGE WASHINGTON, PRESIDENT OF THE UNITED STATES OF AMERICA,

TO ALL WHOM IT MAY CONCERN,

THE Sieur Antoine Charbonet Duplaine, heretofore having produced to me his commiſſion as vice conſul for the Republic of France, within the ſtates of New-Hampſhire, Maſſachuſetts and Rhode-Iſland, and having thereon received from me an exequatur, bearing date the fifth day of June, 1793, recognizing him as ſuch, and declaring him free to exerciſe and enjoy ſuch functions, powers and privileges, as are allowed to vice conſuls of the French Republic, by the laws, treaties, and conventions in that caſe made and provided, and the ſaid ſieur Duplaine, having under colour of his ſaid office, committed ſundry encroachments, and infractions on the laws of the land, and particularly, having cauſed a veſſel to be reſcued, with an armed force, out of the cuſtody of an officer of juſtice, who had arreſted the ſame by proceſs from his court; and it being therefore no longer fit, nor conſiſtent with the reſpect and obedience due to the laws, that the ſaid ſieur Duplaine ſhould be permitted to continue in the exerciſe and enjoyment of the ſaid functions, privileges and powers: Theſe are therefore to declare, that I do no longer recognize the ſaid Antoine Charbonet Duplaine, as vice conſul of the Republic of France, in any part of theſe United States, nor permit him to exerciſe or enjoy any of the functions, powers or privileges, allowed to the vice conſuls of that nation; and that I do hereby wholly revoke and annul the ſaid exequatur heretofore given, and do declare the ſame to be abſolutely null and void, from this day forward.

In teſtimony whereof, I have cauſed theſe letters to be made patent, and the ſeal of the United States of America to be hereunto affixed.

Given under my hand, this day of in the year of our Lord, 1793, and of the Independence of the United States of America, the eighteenth.

GEO: WASHINGTON.

By the Preſident,

TH: JEFFERSON.

MONTICELLO, *in Virginia*, October 3, 1793.

Mr. Jefferſon, Secretary of State, to the Miniſter Plenipotentiary of France.

SIR,

IN a former letter which I had the honour of writing you, I mentioned, that information had been received, that Mr. Duplaine, vice-conſul of France, at Boſton, had been charged with an oppoſition to the laws of the land, of ſuch a character, as, if true, would render it the duty of the Preſident immediately to revoke the exequatur, whereby he was permitted to exerciſe the functions of vice-conſul in theſe United States. The fact has been ſince enquired into, and I now encloſe you copies of the evidence eſtabliſhing it, whereby you

will perceive, how inconsistent with peace and order it would be, to permit any longer the exercise of functions in these United States by a person capable of mistaking their legitimate extent, so far, as to oppose by force of arms, the course of the laws within the body of the country. The wisdom and justice of the government of France, and their sense of the necessity, in every government, of preserving the course of the laws free and unobstructed, render us confident, that they will approve this necessary arrestation of the proceedings of one of their agents; as we would certainly do in the like case, were any consul or vice-consul of ours to oppose, with an armed force, the course of their laws within their own limits Still, however indispensable as this act has been, it is with the most lively concern the President has seen, that the evil could not be arrested otherwise than by an appeal to the authority of the country.

I have the honor to be, &c.

TH: JEFFERSON.

OCTOBER, 3d, 1793.

Mr. Jefferson, Secretary of State, to Mr. Morris, Minister Plenipotentiary of the United States to France.

DEAR SIR,

MR. Duplaine, vice-consul of France at Boston, having, by an armed force, opposed the course of the laws of this country, within the same, by rescuing out of the hands of an officer of justice, a vessel, which he had arrested by authority of a precept from his court, the President has thought it necessary to revoke the exequatur, by which he had permitted him to exercise his functions here. I enclose you copies of the act and of the evidence on which it has been founded; as also of the letters written to him and Mr. Genet, and you are desired to communicate the same to the government of France, and to express to them the very great concern, with which the President has seen himself obliged to take a measure with one of their agents, so little in unison with the sentiments of friendship we bear to their nation, and to the respect we entertain for their authority. But conscious we should deem it an act of friendship in them, to do the like in the like case, and to prove their confidence in our justice and friendship, by instantaneously disabling from a repetition of the act, any consul or vice-consul of ours, who should once have been guilty of such an aggression on their authority, we rely on the same friendly construction, on their part, of the disagreeable measure now forced on us.

I have the honor to be, &c.

TH: JEFFERSON.

GERMANTOWN, November 5, 1793.

Mr. Jefferson, Secretary of State, to the Minister Plenipotentiary of France.

SIR,

I HAVE the honor to enclose you the copy of a letter from Mr. Moissonier, consul of France, at Baltimore, to the governor of Maryland, announcing that Great Britain is about to commence hos-

tilities againſt us, and that he purpoſes to collect the naval force of your republic in the Cheſapeak, and to poſt them as a van-guard to derange the ſuppoſed deſigns of the enemy.

The bare ſuggeſtion of ſuch a fact, however improbable, renders it a duty to enquire into it, and I ſhall conſider it as a proof of your friendſhip to our nation, if you have it in your power, and will be pleaſed to communicate to me the grounds of Mr. Moiſſonier's aſſertion, or any other reſpectable evidence of ſuch an intention, on the part of Great Britain.

In the mean while, as we have reaſon to believe it unfounded, as they have in no inſtance, as yet violated the ſovereignty of our country, by any commitment of hoſtilities, even on their enemies within our juriſdiction, we preſume with confidence that Mr. Moiſſonier's fears are groundleſs. I have it, therefore, in charge to deſire you to admoniſh Mr. Moiſſonier againſt the parade he propoſes, of ſtationing an advanced guard in the bay of Cheſapeak, and againſt any hoſtile array, which, under the profeſſion of defenſive operations, may in fact generate thoſe offenſive. I flatter myſelf, ſir, that you will be ſo good as to join the effect of your authority to that of our government, to prevent meaſures on the part of this agent of your republic, which may bring on diſagreeable conſequences.

I have the honour to be, &c.

TH: JEFFERSON.

BALTIMORE, October 23d.
2d year of the French Republic.

Citizen Moiſſonier to General Lee, Governor of the ſtate of Maryland.

THE liberticide ſyſtem which directs the European cabinets, is going to manifeſt itſelf towards the United States. England, that power to which they have been ſo complaiſant, is getting ready to fall upon them. The preparatives are made, and I ſee, with pain, that no diſpoſitions whatever are made to oppoſe any reſiſtance to them.

The indifference of this ſtate cannot exiſt as to our intereſts.—This bay contains the riches of our commerce of St. Domingo, and the only hope of the French nation. We ſhall become infalliby the firſt victims of this careleſſneſs, if I am not able to obtain from you, Sir, that the forts which defend the entrance of the Cheſapeak be put into condition.

In the meanwhile, and in purſuance of the orders of the miniſter, I am going to collect all the maritime forces which the republic has in this bay, to form a van-guard, ſufficiently formidable, and to derange, if it be poſſible, the projects of our common enemies.

I have the honor to be, with the moſt perfect conſideration,
Sir, your very humble ſervant,

F. MOISSONIER.

TRANSLATION.

NEW-YORK, *November* 15, 1793.
2d year of the Republic of France.

The Miniſter of the French Republic, with the United States, to Mr. Jefferſon Secretary of State of the United States.

SIR,

I HAVE received the letter which you have done me the honour to write to me the 5th November.

The citizen Moiſſonniere has given to my inſtructions a ſenſe more determinate than I had intended. I did not write him that England was immediately going to fall on you; but knowing by your hiſtory, by our own, and by ſtill more particular information, all the hatred with which that government honours your and our principles; knowing the ſecret treaties which unite the courts leagued againſt free people, confident that our ſucceſs can alone ſuppreſs the projects of vengeance which are perpetually nouriſhed in the breaſt of your ancient tyrant, ſeeing that ſome reverſes afterwards effaced, might excite him to accelerate the execution of his deſigns, I preſcribed to this Vice-Conſul,

1ſt. To concert with the commander of our naval forces in the Cheſapeak, to have collected at Baltimore all the commercial veſſels which may be in the open and unſafe road of Norfolk.

2d. To have the armed veſſels anchored, according to cuſtom, in the advanced guard of the convoy.

3d. To eſtabliſh a ſevere police in the road for the purpoſe of preventing diſorder, and protecting our property from incendiary enterprizes, ſufficiently familiar to our common enemy.

4th. To ſound the local government of Maryland, to know whether the forts which form a part of the defence of Baltimore, could not be repaired.

Citizen Moiſſonier, animated by a very pure patriotiſm, has doubtleſs mixed a little warmth in this latter ſtep; but I do not ſee, Sir, that he has merited the admonition you mention, and that the meaſures taken for the ſecurity of the road, can compromit, in any manner, the peace of the United States. God grant that you may long enjoy, with honor, that peace ſo pleaſant and happy. It is the very ſincere wiſh of your friends; it is mine; but I ſhall not now diſſemble more than I have hitherto done, that it is not the moſt certain object of my hopes. Before having the happineſs of ſerving a free people, I was employed by a court, and I reſided at ſeveral others. I have been ſeven years a head of the bureau at Verſailles, under the direction of Vergennes. I have paſſed one year at London, two at Vienna, one at Berlin, five in Ruſſia, and I am two well initiated in the myſteries of theſe cabinets, not to tremble at the fate which menaces America; if the cauſe of liberty ſhould not triumph, every where, for every where, where there is a throne, I warrant that you have an enemy. All the princes look upon you as our teachers; almoſt all conſider you as rebels, who muſt ſooner or later be chaſtiſed; almoſt

all have *ſworn your ruin as well as ours*, and be aſſured that George III. has not entered into their league, but on this condition. Your expedients, your managements will not change this ſyſtem, and if the miniſters who reſide with you, hold a different language, it is only the better to deceive you. They triumph at the ſecurity into which they have plunged you, at the very moment when their courts are inſulting you in every quarter, except on your coaſts, where they know we have forces; but their tone will change whilſt ours ſhall remain invariably the ſame, true and ſincere.

Accept my reſpect,

GENET.

GERMANTOWN, November 8, 1793.

Mr. Jefferſon, Secretary of State, to Mr. Genet, Miniſter of France.

SIR,

I HAVE now to acknowledge and anſwer your letter of September 13, wherein you deſire that we may define the extent of the line of territorial protection on the coaſts of the United States, obſerving, that governments and juris-conſults have different views on this ſubject.

It is certain that, heretofore, they have been much divided in opinion as to the diſtance from their ſea-coaſts to which they might reaſonably claim a right of prohibiting the commitment of hoſtilities. The greateſt diſtance to which any reſpectable aſſent among nations has been, at any time given, has been the extent of the human ſight, eſtimated at upwards of 20 miles, and the ſmalleſt diſtance, I believe, claimed by any nation whatever, is the utmoſt range of a cannon ball, uſually ſtated at one ſea-league. Some intermediate diſtances have alſo been inſiſted on, and that of three ſea-leagues, has ſome authority in its favor. The character of our coaſt, remarkable in conſiderable parts of it for admitting no veſſels of ſize to paſs near the ſhores, would entitle us, in reaſon, to as broad a margin of protected navigation as any nation whatever. Not propoſing, however, at this time, and without a reſpectful and friendly communication, with the powers intereſted in this navigation, to fix on the diſtance to which we may ultimately inſiſt on the right of protection, the Preſident gives inſtructions to the officers, acting under his authority, to conſider thoſe heretofore given them as reſtrained for the preſent to the diſtance of one ſea-league, or, three geographical miles from the ſea-ſhores. This diſtance can admit of no oppoſition, as it is recognized by treaties between ſome of the powers with whom we are connected in commerce and navigation, and is as little or leſs than is claimed by any of them on their own coaſts.

Future occaſions will be taken to enter into explanations with them, as to the ulterior extent to which we may reaſonably carry our juriſdiction. For that of the rivers and bays of the United States, the laws of the ſeveral ſtates are underſtood to have made proviſion, and they are, moreover, as being land-locked within the body of the United States.

Examining, by this rule, the caſe of the Britiſh brig Fanny, taken

on the 8th of May laſt, it appears from the evidence, that the capture was made four or five miles from the land, and conſequently without the line proviſionally adopted by the Preſident, as before mentioned.

I have the honor to be, &c.

TH: JEFFERSON.

GERMANTOWN, November 10, 1793.

Mr. Jefferſon, Secretary of State, to the Miniſter Plenipotentiary from the Republic of France, to the United States.

SIR,

AS in caſes where veſſels are reclaimed by the ſubjects or citizens of the belligerent powers, as having been taken within the juriſdiction of the United States, it becomes neceſſary to aſcertain that fact, by teſtimony taken according to the laws of the United States, the Governors of the ſeveral ſtates, to whom the applications will be made in the firſt inſtance, are deſired immediately to notify thereof, the attorneys of their reſpective diſtricts. The attorney is thereupon inſtructed to give notice to the principal agent of both parties, who may have come in with the prize, and alſo to the conſuls of the nations intereſted, and to recommend to them, to appoint, by mutual conſent, arbiters to decide whether the capture was made within the juriſdiction of the United States, as ſtated to you in my letter of the 8th inſtant, according to whoſe award the governor may proceed to deliver the veſſel to the one or the other party. But in caſe the parties, or conſul ſhall not agree to name arbiters, then the attorney, or ſome perſon ſubſtituted by him, is to notify them of the time and place, when and where he will be, in order to take the depoſitions of ſuch witneſſes as they may cauſe to come before him, which depoſitions he is to tranſmit for the information and deciſion of the Preſident.

It has been thought beſt to put this buſineſs into ſuch a train, as that the examination of the fact may take place immediately and before the witneſſes may have again departed from the United States, which would too frequently happen, and eſpecially in the diſtant ſtates; if it ſhould be deferred till information is ſent to the executive, and a ſpecial order awaited to take the depoſitions.

I take the liberty of requeſting that you will be pleaſed to give ſuch inſtructions to the conſuls of your nation, as may facilitate the object of this regulation. I urge it with the more earneſtneſs, becauſe, as the attorneys of the diſtricts are for the moſt part engaged in much buſineſs of their own, they will rarely be able to attend more than one appointment, and conſequently the party who ſhould fail, from negligence or other motives to produce his witneſſes at the time and place appointed, might loſe the benefit of their teſtimony altogether. This prompt procedure is the more to be inſiſted on, as it will enable the Preſident, by an immediate delivery of the veſſel and cargo to the party having title, to prevent the injuries conſequent on long delay.

I have the honor to be, &c.

TH: JEFFERSON.

TRANSLATION.

NEW-YORK, November 14th, 1793.
2d year of the French Republic.

The Citizen Genet, Miniſter Plenipotentiary from the Republic of France, to the United States, to Mr. Jefferſon, Secretary of State of the United States.

SIR,

I HAVE received the Exequatur of citizen Dannery's commiſſion as Conſul, and immediately tranſmitted it to that public officer.

I ſhall preſent to the Executive Council of the republic, Sir, the judicious reflections which you have made on the attribution of the conſular functions, which are, in fact, reduced by the commiſſions of our conſuls, to the limits of the cities of their reſidence; which, certainly, is not the intention of the council. I ſhall alſo lay before them the obſervation you have made relatively to the addreſs of our conſular commiſſions, and they, in their wiſdom, will adopt the alterations of which this matter appears ſuſceptible, agreeably to the text, ſpirit, and baſis of your conſtitution. However, as it is not explicit in this reſpect, and as the functions attributed to the Preſident of the United States, relatively to the reception of foreign miniſters, appear to be only thoſe which are fulfilled in courts by the firſt miniſters, for their pretended ſovereigns, to verify purely and ſimply the powers of foreign agents accredited to their maſters, and irrevocable by them when once they have been admitted. I ſhould be glad, Sir, in order the better to fix the ideas of the French council on this intereſting queſtion, that you would have the goodneſs to enlighten it with your knowledge and that of your learned colleagues, which I ſhall faithfully tranſmit to my ſuperiors.

Accept my reſpect,

GENET.

Mr. Jefferſon, Secretary of State, to Citizen Genet, Miniſter Plenipotentiary from the Republic of France, to the United States.

GERMANTOWN, November 22, 1793.

SIR,

IN my letter of October 2, I took the liberty of noticing to you, that the commiſſion of conſul to M. Dannery, ought to have been addreſſed to the Preſident of the United States, he being the only channel of communication between this country and foreign nations, it is from him alone that foreign nations or their agents are to learn what is or has been the will of the nation, and whatever he communicates as ſuch, they have a right, and are bound to conſider as the expreſſion of the nation, and no foreign agent can be allowed to queſtion it, to interpoſe between him and any other branch of government, under the pretext of either's tranſgreſſing their functions, nor to make himſelf the umpire and final judge between them. I am, therefore, Sir, not authoriſed to enter into any diſcuſſions with you on the

meaning of our conſtitution in any part of it, or to prove to you, that it has aſcribed to him alone the admiſſion or interdiction of foreign agents. I inform you of the fact by authority from the Preſident. I had obſerved to you that we were perſuaded, that in the caſe of the conſul Dannery, the error in the addreſs had proceeded from no intention in the Executive council of France to queſtion the functions of the Preſident, and therefore no difficulty was made in iſſuing the commiſſion. We are ſtill under the ſame perſuaſion. But in your letter of the 14th inſt. you *perſonally* queſtion the authority of the Preſident, and in conſequence of that have not addreſſed to him the commiſſions of Meſſrs. Pennevert and Chervi, making a point of this formality on your part, it becomes neceſſary to make a point of it it on ours alſo, and I am therefore charged to return you thoſe commiſſions, and to inform you that, bound to enforce reſpect to the order of things eſtabliſhed by our conſtitution, the preſident will iſſue no exequatur to any conſul or vice-conſul, not directed to him in the uſual form, after the party, from whom it comes, has been appriſed that ſuch ſhould be the addreſs.

I have the honor to be, &c.

TH: JEFFERSON.

TRANSLATION.

NEW-YORK, 14th September, 1793.
2d year of the French Republic.

The Citizen Genet, Miniſter Plenipotentiary from the Republic of France, to the United States, to Mr. Jefferſon, Secretary of State of the United States.

SIR,

THE multiplied buſineſs, with which I have been loaded ſince my ſtay here, has not hitherto permitted me to acknowledge the receipt of your letter to me of the 5th of Auguſt; it came duly to hand, and, as the deciſions it contains are only the conſequence of thoſe on which I have already made the ſtrongeſt and the beſt founded repreſentations, I have thought that I ſhould leave the care of executing them to the federal government, becauſe it is not my buſineſs, in any manner, to give the conſuls of the Republic orders contrary to the ſenſe of our treaties, to preſcribe to them not to conform, relative to the armaments and prizes made by our veſſels, to the inſtructions given them by authority ſuperior to mine, and to enjoin on them to ſuſpend the effect of the commiſſions that our privateers hold from the executive council, and not from their delegate. With reſpect to the indemnity promiſed by the Preſident of the United States to the Engliſh miniſter, in virtue of the principles he has eſtabliſhed, it is not more in my power to conſent to it, as, in my opinion, it is not in his to promiſe it. For in order to operate this new appropriation of the funds of the republic, the conſent of the legiſlative bodies of both parties is indiſpenſible.

However, Sir, though I have not the right to withdraw, authori-

tatively, the commiſſions of which our privateers are poſſeſſed, although I am equally unable to conſtrain them to ſubmit to deciſions which our treaties of alliance and commerce do not ſanction, and which the deciſions given by ſeveral tribunals of the United States, which even the negociations with you, ſeem to contradict, yet you may be aſſured, that, after having ſupported, as long as I have been able, the rights and the intereſts of the French people, I ſhall neglect nothing to engage by perſuaſion our privateers to ſuſpend their cruiſes and change their deſtination. The object for which we have encouraged the arming of all thoſe little veſſels, was to deſtroy the commerce of our enemies, and to block up their ſeamen in your ports, for the purpoſe of accelerating the return of peace by a diminution of their ſtrength. This plan was good, and notwithſtanding the obſtacles oppoſed to it, it has ſo far ſucceeded, as to bring into our poſſeſſion fifty of their veſſels, and to condemn to inactivity an infinitely greater number. This object is now accompliſhed; ſuperior forces will accompliſh the reſt, and if I have had the misfortune, by my obedience to my inſtructions, by my obſtinacy in acknowledging only the laws and treaties of the United States, to diſpleaſe ſome *Anglophobiſts* or *Anglomen*, I have at leaſt the ſatisfaction of having rendered an important ſervice to my country, whoſe preſent policy is entirely devoted to the war.

I am very ſenſible, Sir, of the meaſures which you have taken to fruſtrate the odious project of ſome emigrants refugees of St. Domingo, and it were to be wiſhed that we could expel this race entirely, as well as thoſe of the emigrants and ariſtocrats of Europe, much more dangerous to the peace, liberty and independence of the United States, than all the privateers in the world. GENET.

GERMANTOWN, November 22d, 1793.

Mr. Jefferſon, Secretary of State, to the Miniſter Plenipotentiary of France.

SIR,

IN a letter which I had the honor of writing to you on the 12th of July, I informed you, that the Preſident expected that the Jane of Dublin, the Lovely Laſs, and Prince William Henry, Britiſh veſſels, taken by the armed veſſel Citoyen Genet, ſhould not depart from our ports until his ultimate determination thereon ſhould be made known. And in a letter of the 7th Auguſt, I gave you the further information, that the Preſident conſidered the United States as bound, purſuant to poſitive aſſurances, given in conformity to the laws of neutrality, to effectuate the reſtoration of, or to make compenſation for prizes, made ſubſequent to the 5th day of June, by privateers fitted out of our ports; that, conſequently, he expected you to cauſe reſtitution to be made of all prizes taken and brought into our ports, ſubſequent to the ſaid 5th of June, by ſuch privateers, in defect of which he conſidered it as incumbent on the United States to indemnify the owners of ſuch prizes; the indemnification to be reimburſed by the French nation.

This determination involved the brig Jane of Dublin, taken by the armed veſſel Citoyen Genet, on the 24th of July, the brig Lovely Laſs, taken by the ſame veſſel, on the 4th of July, and the brig Prince William Henry, taken by the ſame veſſel on the 28th of June, and I have it in charge to enquire of you, Sir, whether theſe three brigs have been given up, according to the determination of the Preſident, and if they have not, to repeat the requiſition, that they be given up to their former owners.

I have the honor to be, &c.

TH: JEFFERSON.

TRANSLATION.

NEW-YORK, 29th November, 1793.
2d year of the Republic.

The Citizen Genet, Miniſter Plenipotentiary of the French Republic, to Mr. Jefferſon, Secretary of State of the United States.

SIR,

IT is not in my power to order the French veſſels, which have received letters of marque in the ports of the United States, in virtue of our treaties, in virtue of the moſt preciſe inſtructions to me, to reſtore the prizes which they have been authoriſed to make on our enemies, but I have long ſince preſcribed to all our conſuls, neither to oppoſe nor allow to be oppoſed, any reſiſtance to the moral force of the juſtice of the United States, if it thinks it may interfere in affairs relative to the prizes, or of the government, if it perſiſts in the ſyſtem againſt which I have inceſſantly made the beſt founded repreſentations.

Neither is it in my power, Sir, to conſent that the indemnities, which your government propoſes to have paid to the proprietors of the ſaid prizes, ſhould be placed to the account of France. 1ſt. Becauſe no indemnity is due but when ſome damage has been occaſioned in the uſe of a right which was not poſſeſſed, whereas our treaties and my inſtructions prove to me, that we were fully authoriſed to arm in your ports. 2d. Becauſe, according to our conſtitution as well as yours, the executive has not the arbitrary appropriation of the funds of the ſtate; and the executive council of France and their delegates, could not conſent to a reimburſement of the indemnities in queſtion, but when the legiſlative body ſhall firſt have renounced, under its reſponſibility to the people, the right which I have been expreſsly inſtructed to maintain, and afterwards have granted the ſums demanded by our enemies, and which have been promiſed them by the Preſident.

Accept my reſpect,

GENET.

TRANSLATION.

NEW-YORK, November 11th, 1793.
2d year of the Republic.

The Citizen Genet, Miniſter Plenipoteniary of the Republic of France, to Mr. Jefferſon, Secretary of State of the United States.

SIR,

THE funds which were at the diſpoſition of the French Republic for the year 1793, being exhauſted by the colonial bills drawn on them, by the conſiderable expenſe which the continuance of the veſſels of the republic, in the ports of the United States occaſions, by the ſuccour which I have given to the refugees from the Cape, the ſupplies of all kinds which I have ſent into the French colonies in America; in fine, the divers expences of the legation, and of the adminiſtration confided to me, I requeſt the favour of you to make known to the Preſident of the United States, that I am forced in order to face our engagements, and to relieve our moſt preſſing neceſſities, to draw on the ſums which will become due to France, in the years 1794, and 95, until Congreſs ſhall have taken into conſideration the mode of reimburſement which I have been inſtructed to propoſe to the Federal Government; our contractors will be content with theſe aſſignments, provided they are accepted by the treaſury of the United States, to be paid when they become due. Accept my reſpect,

GENET.

TRANSLATION.

NEW-YORK, 14th November, 1793.
2d year of the French Republic.

The Citizen Genet, Miniſter Plenipotentiary of the French Republic, to Mr. Jefferſon, Secretary of State of the United States.

SIR,

IT becomes extremely important that you ſhould have the goodneſs to inform me without delay, whether I can draw, by anticipation, on the approaching reimburſements of the debt of the United States to France; our agents being informed, that the funds which were at the diſpoſition of the republic for 1793, are exhauſted, have ſuſpended their ſupplies and their enterprizes, until they ſhall be aſſured that the aſſignments of the debt, which I may make to them in virtue of my powers, ſhall be paid when due. As without doubt you will form to yourſelf a juſt idea of all the branches of the ſervice which will ſuffer, as long as this authority ſhall be withheld from me, I am perſuaded, Sir, that you will zealouſly ſecond me in this negociation. Two thouſand ſeamen and ſoldiers whom I ſupport are on the eve of wanting bread. The repairs of our veſſels are at a ſtand. The indiſpenſable expeditions of ſubſiſtence for our colonies and France are ſuſpended. The federal government, without advancing a ſingle one of the payments fixed by law, can by two words ſigned by you, or the Secretary of the Treaſury, again put every thing into motion, until Congreſs ſhall have taken into conſideration, the general mode of reimburſement which I have been inſtructed to communicate to you, and which alone can put

me in a condition to ſupply, at leaſt France, for the next campaign, ſince it could not do ſo far this one. The long nights, the thick fogs and the heavy ſeas of winter will be favourable to our tranſports, by rendering leſs probable, the painful riſks to which the odious principles of England expoſe neutral veſſels, and particularly thoſe of the United States.

Accept my reſpect,

GENET.

GERMANTOWN, November 24th, 1793.

Mr. Jefferſon, Secretary of State, to Mr. Genet, Miniſter Plenipotentiary of the French Republic.

SIR,

I LAID before the Preſident of the United States, your two letters of the 11th and 14th inſtant, on the ſubject of new advances of money, and they were immediately referred to the Secretary of the Treaſury, within whoſe department ſubjects of this nature lie. I have now the honor of encloſing you a copy of his report thereon to the Preſident, in anſwer to your letters, and of adding aſſurances of the reſpect and eſteem of

Sir,
Your moſt obedient and
moſt humble ſervant,
TH: JEFFERSON.

The Secretary of the Treaſury, upon two letters from the Miniſter Plenipotentiary of France, to the Secretary of State, ſeverally bearing date the 11th and 14th of November, inſtant, reſpectfully Reports to the Preſident of the United States, as follows:

1ſt. THE object of theſe letters is to procure an engagement, that the bills which the Miniſter may draw upon the ſums, which according to the terms reſpecting the contracts of the French debt, would fall due in the years 1794 and 1795, ſhall be accepted on the part of the United States, payable at the periods ſtipulated for the payments of thoſe ſums reſpectively.

The following conſiderations are ſubmitted as militating againſt the propoſed arrangement—

I. According to the view entertained at the Treaſury, of the ſituation of the account between France and the United States, adjuſting equitably the queſtion of depreciation, there have already been anticipated payments to France equal, or nearly equal to the ſums falling due in the courſe of the year 1794.

II. The proviſion by law for diſcharging the principal of the French debt, contemplates only loans. Of thoſe, which have been hitherto made, the ſum unexpended is not more than commenſurate with a payment which is to be made on the firſt of June next, upon account of the capital of the Dutch debt. It is poſſible that a fund for this payment may be derived from another loan; but it is known to the Pre-

ſident, that from advices recently received, full reliance cannot be placed on this reſource; owing to the influence of the preſent ſtate of European affairs, upon the meaſures of the United States for borrowing. It need not be obſerved, that a failure in making the payment referred to, would be ruinous to the credit of the United States.

The acceptance of the bills of the Miniſter of France would virtually pledge the only fund, of which there is at preſent a certainty, for accompliſhing that payment, and as this is a matter of ſtrict obligation, directly affecting the public credit, it would not appear adviſable to engage that fund for a different object, which, if the ideas of the Treaſury are right, with regard to the ſtate of our account with France, does not ſtand upon a ſimilar footing.

It would be manifeſtly unſafe to preſume upon contingencies, or to enter into engagements to be executed at diſtant periods, when the means of execution are uncertain.

But as there appears to be a difference of opinion between the Miniſter of France and the Treaſury, with regard to the ſtate of the account between the two countries, it is neceſſary that ſomething on this head ſhould be aſcertained. With this view, the Secretary of the Treaſury will proceed without delay to take arrangements of or the adjuſtment of the account.

ALEXANDER HAMILTON,
Secretary of the Treaſury.

Treaſury Department,
November 23, 1793.

NEW-YORK, 21 November, 1793.

Mr. Clinton, Governor of New-York, to Mr Genet, Miniſter Plenipotentiary of France.

SIR,

AS by your letter of the 11th inſtant, I am imformed that the veſſel therein mentioned, now repairing at the wharf in the Eaſt river, is called the Carmagnole, and that ſhe was fitted out as a privateer, in the Delaware, I conceive it proper to tranſmit to you a copy of a letter which I have ſince received from the Secretary of War, dated the 15th inſtant, in anſwer to one from me to the Preſident of the United States, informing him of your having withdrawn the commiſſions granted to certain privateers, fitted out in the ports of the United States: By which you will perceive it to be the ſenſe of the Preſident, that this veſſel ſhould be entirely diveſted of her warlike equipments, and which, from the readineſs you are pleaſed to expreſs to conform to the views of the Federal Government, I cannot doubt, will on the receipt hereof, be complied with, and that until this is effected you will not permit her to leave the harbour.

I am, &c.

Go: CLINTON.

NEW-YORK, 23d November, 1793.
2d year of the French Republic.

Citizen Genet, Minister Plenipotentiary from the French Republic, to General Clinton, Governor of the State of New-York.

SIR,

I HAVE received the letter which you did me the honour to write me the 21st instant, as also the copy annexed to it, of a letter from the Secretary of War.

The fresh requisitions which have lately been transmitted to you respecting the schooner *Columbia*, formerly called the Carmagnole, are only a continuation of the system which has been observed towards me, from the very commencement of my mission, and which evidently appears to be calculated to baffle my zeal, to fill me with disgust, and to provoke my country to measures dictated by a just resentment, which would accomplish the wishes of those whose politics tend only to disunite America from France, the more easily to deliver the former into the power of the English.

Warned by this conjecture, which is unfortunately but too well founded, instead of proving to you as I could easily do that the orders which have been given to you, are contrary to our treaties, to the conduct of the Federal Government even towards the British nation, whose packets and a great number of merchant vessels, I am well informed, have been permitted to arm for defence in their ports, to the bonds of friendship which unite the people of both Republics, and to their mutual interest, since the vessel in question is intended to serve as an advice-boat in our correspondence with the French islands, which, by our treaties, you are bound to guarantee, and in whose fate your property is no less interested than ours; I will give orders to the consul and to the French commodore of the road, to conform themselves to every thing that your wisdom may think proper to direct.

Accept, Sir, my sincere and
respectful attachment,
GENET.

NEW-YORK, 24th November, 1793.

The Governor of New-York, to the President of the United States.

SIR,

I HAVE recently received a letter from the Secretary of War, dated the 12th, and also another dated the 13th instant, in answer to mine of the 8th of September last.

On recurring to my correspondence with the minister of France, a copy of which was enclosed in that letter, it will appear, that my object was to procure the departure of the privateers Petit Democrat and Carmagnole, agreeably to your decision, communicated to me in a letter from the Secretary of War, dated the 16th of August; but as it was mentioned to be your desire, that forcible measures should not be resorted to, until every other effort had been tried. I thought it proper to submit to your consideration the measure proposed by the French

minister. In the interim, the Petit Democrat departed from this harbour without any augmentation of her military equipments, so far, as my knowledge extends. The Carmagnole still remains here, and it seems is the vessel to which my letter of the 15th instant refers. I now transmit a second letter which I have written to the French minister on this subject and his answer, and have only to request to be informed whether any farther interference on my part is expected.

As I shall in a short time set out for Albany, to attend the meeting of our legislature, I take this opportunity of apprizing you of it, in order, that if any arrangements are thought necessary, which may require my personal attention, they may be concerted before my departure, as it is uncertain whether I shall return to this city before spring.

I am, with sentiments of the highest respect,
Your most obedient servant,
Go: CLINTON.

New-York, 25th November, 1793.
2d year of the Republic of France.

Citizen Genet, Minister Plenipotentiary of the Republic of France with the United States, to Mr. Jefferson, Secretary of State of the United States.

Sir,

I ASK your pardon, if my dispatches precipitate themselves with so much rapidity on you; but events announce themselves in such a manner, daily, that I am scarcely able to trace and notify them to you. My preceding dispatches have presented to you complaints on the workings of the new emigrants, who inundate your continent. I have essayed to unmask to you, the profound and double intrigues; I have notified you of their insults to the French agents, and the personal dangers which these agents are daily exposed to, surrounded by these furies. At present, I have to inform you of facts, well characterised; and, if I do not obtain justice, I shall, at least, have done my duty, and my heart and my country will have nothing to reproach me.

It is announced to me, from Baltimore, that 200 colonists are embarking, in the Chesapeake, for *Jeremie**. The Philadelphia counter-revolutionary presses advertise, that two vessels are about taking passengers for the Mole†. Thus, Sir, it is no longer the good offices of an ally, that France has occasion to claim of the federal government—It is not to aid in our destruction, that I have to conjure you—It is to entreat you, not to conspire in the loss of a colony, which you ought to defend, that my afflicting duty is confined to.

With whatever fury they have *obstinately persisted to paint me, in libels, which I despise*, as an enemy of the American people, and of their go-

* *In a vessel belonging to Mr. Zachariah Copman.*

† *One is the ship Delaware, captain James Art, fitted out by James Shoemaker. The other is the Galliot Betsey Hannah, captain Donanchan, fitted out by Messieurs Reed and Soder.*

vernment, and as aſpiring to involve you in the war; you know, Sir, with what moderation I have reminded you of the obligations which were impoſed on you. In that alſo, I have a clear conſcience, of having been influenced, neither by our ſucceſſes, nor our misfortunes. I have only ceded to proviſory acts, which, concealing a manifeſt contradiction under an apparent modeſty, avow the inability to defend us, and uſurp, at the ſame time, the right to let us be attacked.

I have in my poſſeſſion, the proofs of a conſpiracy, which broke out in September laſt, for the ſurrender of the Mole; and the original papers encloſed, prove, that it was concerted in firſt days of 1793, and ſigned then with names which were not unmaſked till 7th September laſt. The conſpirators, adroitly concealed, were urging claims on the Republic, at the moment they were treating with the Engliſh miniſter, to the end, that by this double intrigue, they might overthrow the true friends of the French, and conduct to its end their ſhameful plot. Theſe partial threads, which diſcover themſelves now, were only neceſſary portions of the conſpiracy of a great traitor, celebrated in the laſt year, now cruſhed under remorſe, and the contempt of the world. The French people, Sir, have baffled all theſe intrigues, and if ulterior proofs were wanting of their wiſdom, of their firm determination to be free, and of the ſtability of their government, you would find them in the glorious ſtruggle of the preſent campaign. Therein, amidſt great reverſes, ſignal victories, and atrocious conſpiracies, the Coloſſus of the French people raiſes itſelf majeſtically, and makes their enemies tremble. Theſe then are the friends, under whoſe wing America will brave the deſpots who divide their hatred between her and us. Thoſe are the friends, who, among the general meaſures of rigor, which circumſtances force from them, do not ceaſe a moment to remember you, to except you from them. The demands, which I make of you in their name, Sir, are confined to this, that you will not ſuffer poignards, for their aſſaſſination, to be forged in your territory.

I pray you, in conſequence, Sir, to repreſent to the Preſident of the United States, 1ſt. That the perſonal ſafety of our conſuls is threatened, at Charleſton and at Baltimore, and that little activity is employed for their protection. 2d. That 200 colonial emigrants are embarking at Baltimore, and are perhaps departed to join the traitors of Jeremie—That two other veſſels, armed, doubtleſs, by our enemies, are advertiſed at Philadelphia, in the counter-revolutionary gazettes, to carry paſſengers of the ſame ſtamp to the Mole, Saint Nicholas. That I know alſo, of my certain knowledge, that American veſſels have, for ſome time carried proviſions and war ſtores to theſe two rebel places; and, in fine, that the emiſſaries of men, with whom ſome of your miniſters aſſociate, have gone to this iſland, which has been a long time the prey of a thouſand artful conſpiracies, there to negociate inſurrections, and the ruin of the commercial intereſts of my country; that it is on your territory, that all this is doing; that it is in your country, in fine, that exiſts the centre of the intriguing deſolations of our ultramarine poſſeſſions.

I requeſt you, Sir, to obtain a definitive anſwer, from the ſupreme head of the federal government, on theſe two objects, in order that I may, by the firſt opportunity, inform the French government, of the ſteps I have taken in this reſpect, and of their effect.

I ſhall moreover take the liberty to propoſe to you, a meaſure, which I cannot adopt, but with your authority, and which would obviate the ſubterfuges of traitors, and the coercive means which you may not poſſeſs. It is, to give orders to the armed veſſels of the Republic, to ſtop every American veſſel deſtined for the iſland of Saint Domingo, which ſhall not have a paſſport ſigned by me. Thus I ſhall prevent the introduction of enemies, which may eſcape your vigilance, and we ſhall guard your citizens from ſeductions and dangers. I beg of you to make known to me the intention of the Preſident on this propoſition.

Accept my reſpect,

GENET.

PHILADELPHIA, November 30, 1793.

Mr. Jefferſon, Secretary of State, to Mr. Genet, Miniſter Plenipotentiary of France.

SIR,

I HAVE laid before the Preſident of the United States, your letter of November 25th, and have now the honor to inform you, that moſt of its objects, being beyond the powers of the executive, they can only manifeſt their diſpoſitions, by acting on thoſe which are within their powers. Inſtructions are accordingly ſent to the diſtrict attorneys of the United States, reſiding within ſtates wherein French conſuls are eſtabliſhed, requiring them to inform the conſuls of the nature of the proviſions made by the laws, for preventing as well as puniſhing, injuries to their perſons, and to adviſe and aſſiſt them in calling theſe proviſions into activity, whenever the occaſions for them ſhall ariſe.

It is not permitted, by the law, to prohibit the departure of the emigrants to St. Domingo, according to the wiſh you now expreſs, any more than it was to force them away, according to that expreſſed by you in a former letter. Our country is open to all men, to come and go peaceably, when they chooſe; and your letter does not mention, that theſe emigrants meant to depart armed and equipped for war. Leſt, however, this ſhould be attempted, the governors of the ſtates of Pennſylvania and Maryland are requeſted to have particular attention paid to the veſſels named in your letter, and to ſee that no military expedition be covered or permitted, under colour of the right which the paſſengers have to depart from theſe ſtates.

Proviſions not being claſſed among the articles of contraband, in time of war, it is poſſible, that American veſſels may have carried them to the ports of Jeremie and La Mole, as they do to other dominions of the belligerent powers; but if they have carried arms alſo, theſe, as being contraband, might certainly have been ſtopped and confiſcated.

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PHILADELPHIA, NOV. 29, 1791.

Mr. Jefferſon, Secretary of State, to Mr. Hammond, Miniſter Plenipotentiary of Great Britain.

SIR,

IN recalling your attention to the 7th article of the definitive treaty of peace between the United States of America and his Britannic majeſty, wherein it was ſtipulated that "his Britannic majeſty ſhould, with all convenient ſpeed, and without cauſing any deſtruction, or carrying away any negroes, or other property of the American inhabitants, withdraw all his armies, garriſons and fleets from the ſaid United States, and from every poſt, place and harbour, within the ſame"—I need not obſerve to you, that this article ſtill remains in a ſtate of inexecution, nor recapitulate what, on other occaſions, has paſt on this ſubject. Of all this, I preſume, you are fully apprized. We conſider the friendly movement lately made by the court of London, in ſending a miniſter to reſide with us, as a favorable omen of its diſpoſition to cultivate harmony and good will between the two nations, and we are perfectly perſuaded that theſe views will be cordially ſeconded by yourſelf, in the miniſtry which you are appointed to exerciſe between us. Permit me, then, ſir, to aſk, Whether you are inſtructed to give us explanations of the intentions of your court as to the execution of the article above quoted?

With reſpect to the commerce of the two countries, we have ſuppoſed that we ſaw, in ſeveral inſtances, regulations on the part of your government, which, if reciprocally adopted, would materially injure the intereſts of both nations.

On this ſubject, too, I muſt beg the favor of you to ſay, Whether you are authorized to conclude, or to negociate arrangements with us which may fix the commerce between the two countries on principles of reciprocal advantage? I have the honor to be, with ſentiments of the moſt perfect eſteem and reſpect,

SIR, &c.
TH. JEFFERSON.

PHILADELPHIA, 30th Nov. 1791.

Mr. Hammond, Miniſter Plenipotentiary of Great Britain, to Mr. Jefferſon, Secretary of State.

SIR,

I HAVE the honor of acknowledging the receipt of your letter of yeſterday.

With reſpect to the non-execution of the 7th article of the definitive treaty of peace between his Britannic majeſty and the United States of America, which you have recalled to my attention, it is ſcarcely neceſſary for me to remark to you, ſir, that the king, my maſter, was induced to ſuſpend the execution of that article on his part, in conſequence of the non-compliance, on the part of the United States, with the engagements contained in the 4th, 5th, and 6th articles of the ſame treaty. Theſe two objects are therefore, ſo materially connected with each other as not to admit of ſeparation, either in the mode of diſcuſſing them, or in any ſubſequent arrangements, which may reſult from that diſcuſſion.

In ſtating to you, ſir, this indiſpenſable conſideration, I muſt at the ſame time aſſure you, that, in the confidence of experiencing a ſimilar diſpoſition in the government of the United States, it is his majeſty's deſire to remove every ground and occaſion of miſunderſtanding which may ariſe between the two countries: And in conformity to that diſpoſition in his majeſty, I can add, that I am inſtructed to enter into the diſcuſſion of all ſuch meaſures, as may be deemed the moſt practicable and reaſonable for giving effect to thoſe ſtipulations of the definitive treaty, the execution of which has hitherto been delayed, as well by the government of this country as by that of Great Britain.

In anſwer to your queſtion on the ſubject of the commerce of Great Britain and the United States, I can alſo inform you, ſir, that the king is ſincerely diſpoſed to promote and facilitate the commercial intercourſe between the two countries, and that I am authorized to communicate to this government his majeſty's readineſs to enter into a negociation for eſtabliſhing that intercourſe upon principles of reciprocal benefit.

Before I conclude this letter, I cannot omit mentioning the ſenſe I entertain of the obliging expreſſions of perſonal regard, which you, ſir, have been pleaſed to employ, relative to my appointment to the ſtation, which I hold in this country. I can venture to aſſure you, with the greateſt ſincerity, that it affords me the warmeſt ſatisfaction to be the medium of communicating to the United States,

the actual good diſpoſitions of my ſovereign and nation towards them.—And I truſt, I may be permitted to add, that it would be the higheſt object of my ambition, to be the humble inſtrument of contributing, in any manner, to fix upon a permanent baſis the future ſyſtem of harmony and good underſtanding between the two countries.

I have the honor to be, with every ſentiment of reſpect and eſteem, Sir,
Your moſt obedient and moſt humble ſervant,
GEO. HAMMOND.

PHILADELPHIA, Dec. 6th, 1791.

Mr. Hammond, Miniſter Plenipotentiary of Great Britain, to Mr. Jefferſon, Secretary of State.

SIR,

AS I am extremely ſolicitous to avoid any miſapprehenſion of my letter of the 30th ulto. I have now the honor of ſtating to you in explanation of that part of it to which you have adverted in yours of yeſterday, that although (as I formerly mentioned in my firſt converſations with you after my arrival in this country) I am not as yet empowered to *conclude* any definitive arrangement with reſpect to the commercial intercourſe between the two countries, I ſtill meant it to be underſtood, that I am fully authorized to *enter* into a negociation, for that purpoſe, and into the diſcuſſion of ſuch principles, as may appear beſt calculated to promote that object, on a baſis of reciprocal advantage.

I am farther authorized to receive any propoſitions which this government may be pleaſed to make to me upon this ſubject.

I have the honor to be, with every ſentiment of reſpect and eſteem, Sir,
Your moſt obedient and moſt humble ſervant,
GEO. HAMMOND.

PHILADELPHIA, Dec. 13th, 1791.

Mr. Jefferſon, Secretary of State, to Mr. Hammond, Miniſter Plenipotentiary of Great Britain.

SIR,

I HAVE laid before the preſident of the United States, the letters of Nov. 30th and Dec. 6th, with which you honored me, and in conſequence thereof, and particularly of that part of your letter of Dec. 6th, where you ſay that you are fully authorized to enter into a negociation for the purpoſe of arranging the commercial intercourſe between the two countries, I have the honor to inform you that I am ready to receive a communication of your full powers for that purpoſe, at any time you ſhall think proper, and to proceed immediately to their object.

I have the honor to be, with ſentiments of the moſt perfect eſteem and reſpect, &c.
TH. JEFFERSON.

PHILADELPHIA, Dec. 14th, 1791.

Mr. Hammond, Miniſter Plenipotentiary of Great Britain, to Mr. Jefferſon, Secretary of State.

SIR,

IN anſwer to your letter of yeſterday, I can only repeat what I have before ſtated in my firſt converſations with you after my arrival, and ſubſequently in my letter of the 6th of this month; viz. that I have no ſpecial commiſſion empowering me to *conclude* any *definitive* arrangement upon the ſubject of the commercial intercourſe between Great Britain and the United States. But that I conceive myſelf fully competent to enter into a negociation with this government for that purpoſe, in the diſcuſſion of the principles which may ſerve as the baſis, and conſtitute the ſtipulations of any ſuch definitive arrangement.

This opinion of my competency, is founded upon my inſtructions, in as much as they are to regulate my perſonal conduct, and upon the conviction that the letter of credence from his majeſty, inveſting me with a general *plenipotentiary* character, which I had the honor of preſenting to the preſident of the United States, and his conſequent recognition of me in that character, are authorities decidedly adequate to the commencement of a preliminary negociation.

I have the honor to be, with ſentiments
of great reſpect, Sir,
Your moſt obedient and moſt humble ſervant,
GEO. HAMMOND.

PHILADELPHIA, Dec. 15th, 1791.

Mr. Jefferſon, Secretary of State, to Mr. Hammond, Miniſter Plenipotentiary of Great Britain.

SIR,

I AM to acknowledge the honor of your letter of Nov. 30th, and to expreſs the ſatisfaction with which we learn, that you are inſtructed to diſcuſs with us, the meaſures, which reaſon and practicability may dictate, for giving effect to the ſtipulations of our treaty yet remaining to be executed. I can aſſure you on the part of the United States, of every diſpoſition to leſſen difficulties, by paſſing over whatever is of ſmaller concern, and inſiſting on thoſe matters only, which either juſtice to individuals or public policy render indiſpenſible; and in order to ſimplify our diſcuſſions, by defining preciſely their objects, I have the honor to propoſe that we ſhall begin by ſpecifying, on each ſide, the particular acts which each conſiders to have been done by the other, in contravention of the treaty. I ſhall ſet the example.

The proviſional and definitive treaties in their 7th article ſtipulated that his "Britannic majeſty ſhould, with all convenient ſpeed, and without cauſing any deſtruction or *carrying away any negroes, or other property* of the American inhabitants, *withdraw all his armies, garriſons, and fleets from the ſaid United States* and from every port, place, and harbour within the ſame."

But the British garrisons were not withdrawn with all convenient speed, nor have ever yet been withdrawn from Michillimackinac, on lake Michigan; Detroit, on the streight of lakes Erie and Huron; fort Erie, on lake Erie; Niagara, Oswego, on lake Ontario; Oswegatchie, on the river St. Lawrence; Point Au-fer, and Dutchman's point, on lake Champlain.

2d. The British officers have undertaken to exercise a jurisdiction over the country and inhabitants in the vicinities of those forts; and

3d. They have excluded the citizens of the United States from navigating, even on our side of the middle line of the rivers and lakes established as a boundary between the two nations.

By these proceedings we have been intercepted entirely from the commerce of furs with the Indian nations to the northward, a commerce which had ever been of great importance to the United States, not only for its intrinsic value, but as it was the means of cherishing peace with those Indians, and of superseding the necessity of that expensive warfare we have been obliged to carry on with them, during the time that these posts have been in other hands.

On withdrawing the troops from New York, 1st. A large embarkation of negroes, of the property of the inhabitants of the United States, took place before the commissioners on our part, for inspecting and superintending embarkations, had arrived there, and without any account ever rendered thereof. 2d. Near three thousand others were publicly carried away by the avowed order of the British commanding officer, and under the view, and against the remonstrances of our commissioners. 3d. A very great number were carried off in private vessels, if not by the express permission, yet certainly without opposition on the part of the commanding officer, who alone had the means of preventing it, and without admitting the inspection of the American commissioners; and 4th, Of other species of property carried away, the commanding officer permitted no examination at all. In support of these facts I have the honor to enclose you documents, a list of which will be subjoined, and in addition to them, I beg leave to refer to a roll signed by the joint commissioners and delivered to your commanding officer for transmission to his court, containing a description of the negroes publicly carried away, by his order as before mentioned, with a copy of which you have doubtless been furnished.

A difference of opinion too, having arisen as to the river intended by the plenipotentiaries to be the boundary between us and the dominions of Great Britain, and by them called the St. Croix, which name, it seems, is given to two different rivers, the ascertaining of this point, becomes a matter of present urgency: it has heretofore been the subject of applications from us to the government of Great Britain.

There are other smaller matters between the two nations which remain to be adjusted, but I think it would be better to refer these for settlement through the ordinary channel of our ministers, than to

embarraſs the preſent important diſcuſſions with them: they can never be obſtacles to friendſhip and harmony.

Permit me now, Sir, to aſk from you a ſpecification of the particular acts, which being conſidered by his Britannic majeſty, as a non-compliance on our part with the engagements contained in the 4th, 5th, and 6th articles of the treaty, induced him to ſuſpend the execution of the 7th, and render a ſeparate diſcuſſion of them inadmiſſible. And accept aſſurances of the higheſt reſpect and eſteem,

With which I have the honour to be, Sir,

Your moſt obedient and moſt humble ſervant,

TH: JEFFERSON.

Documents referred to, and enclosed.

Extract of a letter of May 12th, 1783, from Sir Guy Carleton to General Waſhington. Letter of May 24th, 1783, from the American commiſſioners to Sir Guy Carleton. Letter of May 29th, 1783, from Mr. Morgan for Sir Guy Carleton to the American commiſſioners.

Remonſtrance of June 9th, 1783, from the American Commiſſioners to Sir Guy Carleton. Letter of June 14th, 1783, from the American commiſſioners to General Waſhington. Extract of a remonſtrance of June 17, 1783, from the American commiſſioners to Sir Guy Carleton. Letter of Jan. 18th, 1784, from the American commiſſioners to General Waſhington.

Extract of a Letter from Sir Guy Carleton to General Waſhington, of 12th May, 1783.

"I ENCLOSE a copy of an order which I have given out, to prevent the carrying away any negroes or other property of the American inhabitants. I underſtand from the gentlemen therein named, that they viſited the fleet bound to Nova Scotia, and ordered on ſhore whatever came clearly under the above deſcription: there appeared to be but little difference of opinion except in the caſe of the negroes who had been declared free, previous to my arrival.—As I had no right to deprive them of that liberty I found them poſſeſſed of, an accurate regiſter was taken of every circumſtance reſpecting them, ſo as to ſerve as a record of the name of the original proprietor of the negro, and as a rule by which to judge of his value. By this open method of conducting the buſineſs, I hoped to prevent all fraud, and whatever might admit of different conſtructions is left open for future explanation or compenſation. Had theſe negroes been denied permiſſion to embark, they would in ſpite of every means to prevent it, have found various methods of quitting this place, ſo that the former owner would no longer have been able to trace them, and of courſe would have loſt in every way, all chance of compenſation.

This buſineſs, carried on in this public manner, and the orders nominating perſons to ſuperintend embarkations publiſhed in the gazette, I had no reaſon to think either the embarkation or any circumſtance attending it, could have been matter of ſurprize to your

excellency on the 6th of May. I then, however, learned with concern, that the embarkation which had already taken place, and in which a large number of negroes had been conveyed away, appeared to your excellency as a meaſure totally different from the letter and ſpirit of the treaty.

" The negroes in queſtion, I have already ſaid, I found free when I arrived at New York. I had therefore no right, as I thought, to prevent their going to any part of the world they thought proper.

" I muſt confeſs that the mere ſuppoſition that the king's miniſter could deliberately ſtipulate in a treaty, an engagement to be guilty of a notorious breach of " the public faith," towards people of any complexion, ſeems to denote a leſs friendly diſpoſition than I could wiſh, and I think leſs friendly than we might expect. After all, I only give my own opinion. Every negroe's name is regiſtered, the maſter he formerly belonged to, with ſuch other circumſtances as ſerve to denote his value, that it may be adjuſted by compenſation, if that was really the intention and meaning of the treaty. Reſtoration, where inſeparable from a breach of public faith, is, as the world, I think, muſt allow, utterly impracticable. I know of no better method of preventing abuſe, and the carrying away negroes, or other American property, than that I propoſed to the miniſter for foreign affairs, in my letter of the fourteenth of April, the naming commiſſioners to aſſiſt thoſe appointed by me, to inſpect all embarkations, and I am pleaſed to find your excellency has approved of this method, and appointed Egbert Benſon, eſquire, Lieutenant-colonel Smith, and Daniel Parker, eſquire, one of the contractors for ſupplying your army with proviſions, commiſſioners on your part for this purpoſe."

I am, Sir, &c.

GUY CARLETON.

May 24th, 1783.

From the Commiſſioners to Sir Guy Carleton.

SIR,

WITH this we do ourſelves the honor to tranſmit your excellency the caſe of James Van Derburgh, eſquire, an inhabitant of this ſtate, and conformable to the inſtructions contained in our commiſſion, it becomes our duty to requeſt that your excellency will pleaſe to direct that the claim of Mr. Van Derburgh may be enquired into, and if, on ſuch enquiry, the facts, as ſtated ſhould be proved, that the horſe may then be delivered to Mr. Van Derburgh.

We have the honor to be, &c.

EGBERT BENSON.
W. S. SMITH.

The Caſe of James Van Derburgh, Eſquire.

MR. Van Derburgh had an horſe ſtolen from him, out of his ſtable, in Beekman's precinct, in Dutcheſs county, twenty-ſixth of February, 1780; and the horſe was conveyed, by the perſons who ſtole him, to a then Britiſh poſt in Weſt Cheſter county, where he has ſince been detained, ſo that Mr. Van Derburgh could not recover him again. The horſe is now in the poſſeſſion of colonel James De Lancey, of this city, from whom Mr. Van Derburgh has demanded him, and who refuſes to deliver him to Mr. Van Derburgh.

NEW YORK, May 29th, 1783.

From Sir Guy Carleton to the Commiſſioners.

GENTLEMEN,

I AM directed to inform you, in anſwer to your letter of the twenty-fourth inſtant, that after the moſt attentive review by the commander in chief of his letter to the honorable R. R. Livingſton, which has become the declared ground of your commiſſion, he is not able (ſuſpending all other conſiderations) to perceive either in that letter, or in any clauſe of your inſtructions, any authority for your officially claiming, on behalf of Mr. Van Derburgh, an horſe, ſtolen or taken in Dutcheſs county, in the year 1780, and which you do not even ſuggeſt to be in danger of being preſently embarked and carried away.

I have the honor to be, gentlemen, &c.

M. MORGAN.

NEW YORK, 9th June, 1783.

Copy of a Remonſtrance from the Commiſſioners to Sir Guy Carleton.

THE underſigned commiſſioners in behalf of the United States of America, do repreſent to your excellency, that on Friday laſt, the board compoſed of the commiſſioners appointed by your excellency, and of the underſigned, examined into the claim of Mr. Philip Lott, to a negro, named Thomas Francis, now on board a veſſel called the Fair American, in this harbour, and about to be carried off to the iſland of Jamaica; that on ſuch examination it appeared to the board, that Mr. Lott purchaſed the aforementioned negro from Mr. Elihu Spencer, of New-Jerſey, and that the ſaid negro came within the Britiſh lines the ſecond day of November laſt, and was enliſted, by captain Thelwall, in a corps diſtinguiſhed by the name of the Jamaica rangers. Captain Thelwall produced to the board a certificate, from the commandant of this city, that the ſaid negro came within the Britiſh lines, under the ſanction of the proclamation reſpecting negroes.

The underſigned, therefore, in conformity to that part of their commiſſion whereby they are required "to attend particularly to the due execution of that part of the ſeventh article of the proviſional treaty, where it is agreed, his Britannic majeſty ſhall withdraw his armies, &c. without cauſing any deſtruction, or carrying away any

negroes or other property of the American inhabitants," do requeſt of your excellency, that the ſaid captain Thelwall may be prohibited from carrying away the ſaid negro, and in conformity to that part of their commiſſion, whereby they are required "to obtain the delivery of all negroes, and other property of the inhabitants of the United States, in the poſſeſſion of the Britiſh forces, or any ſubjects of, or adherents to, his Britannic majeſty," do further requeſt of your excellency, that the ſaid negro may be delivered to Mr. Lott.

The underſigned do themſelves the honor, herewith, to tranſmit to your excellency, a copy of an act of the United States in congreſs aſſembled, of the twenty-ſixth of May laſt, which has been tranſmitted to them by his excellency general Waſhington, with directions to pay ſtrict attention to the injunctions of congreſs contained in the ſaid act; and as the underſigned are, by their commiſſion, enjoined to repreſent to the commander in chief of the Britiſh forces in this city, every infraction of the articles of peace, it therefore becomes their duty to remonſtrate to your excellency againſt your permiting any negroes, the property of the citizens of theſe ſtates, to leave this city, and to inſiſt on a diſcontinuance of that meaſure.

EGBT. BENSON.
WILLM. S. SMITH.
DANIEL PARKER.

Copy of a Letter from the Commiſſioners to General Waſhington.

NEW YORK, June 14th, 1783.

SIR,

WE do ourſelves the honor to acknowledge the receipt of your excellency's letter of the ſecond inſtant, covering the act of congreſs of the twenty-ſixth ult. and we alſo do ourſelves the honor to tranſmit your excellency, a copy of a memorial which we preſented to Sir Guy Carleton, on Monday laſt, to which we have not, as yet, received any anſwer, except a verbal meſſage by his deputy ſecretary, that he did not conceive an anſwer, at this time, neceſſary.

Your excellency will recollect, that in anſwering our claim for reſtitution in the caſe of Mr. Van Derburgh, Sir Guy Carleton intimated an impropriety in the claim, as the property was not ſuggeſted to be in danger of being ſent away: this left room for an idea, that, poſſibly, property about to be ſent away, would be reſtored; and we apprized your excellency, that we ſhould take the firſt fair occaſion which ſhould preſent itſelf, to remove all doubt on this point; and, with this view, we made the requiſition in behalf of Mr. Lott; and we conceive it is now reduced to a certainty, that all applications for the delivery of property will be fruitleſs, and we ſhall therefore deſiſt from them.

That part of the memorial which is in the nature of a remonſtrance, is in conſequence of the reſolution of congreſs, and your excellency's letter which accompanied it.

Yeſterday we aſſiſted in ſuperintending an embarkation, conſiſting of fourteen tranſports, bound to Nova Scotia, having on board, as

nearly as we could eſtimate, about three thouſand ſouls, among which were at leaſt one hundred and thirty negroes, who appeared to be property of the citizens of the United States; and as this embarkation was made ſince we preſented our memorial, and as it were in the face of it, we ſubmit it to your excellency, whether it is neceſſary for us further to remonſtrate to Sir Guy Carleton, againſt his permitting ſlaves, the property of American ſubjects, to leave this place, and could wiſh to receive your excellency's directions on that ſubject.

We have the honor to be, &c.

EGBT. BENSON.
DANIEL PARKER.

Extract of a Remonſtrance from the Commiſſioners to Sir Guy Carleton.

NEW YORK, June 17th, 1783.

THE underſigned commiſſioners, in behalf of the United States of America, did, with intent to comply with their inſtructions directing them "to aſſiſt ſuch perſons as ſhould be appointed by your excellency in ſuperintending and inſpecting ſuch embarkations as the evacuation of this place ſhould require," on Friday laſt, aſſiſt the commiſſioners, appointed by your excellency, in ſuperintending and inſpecting an embarkation made by direction of your excellency, and conſiſting of fourteen tranſports in the pay and ſervice of the crown of Great Britain, bound for the province of Nova Scotia, and having on board, as near as the underſigned could eſtimate, at leaſt two thouſand white perſons, who, a few individuals excepted, appeared to be perſons in civil life, and inhabitants of the United States: and having alſo on board upwards of one hundred negroes, ſeventy three of which appeared to be the property of American ſubjects not reſiding within the Britiſh lines.

The underſigned, therefore, in order to guard againſt improper inferences from their ſilence on this occaſion, and from their conduct in future, conceive it incumbent on them to repreſent to your excellency, that, notwithſtanding any act on their part in ſuperintending or inſpecting the above-mentioned, or any other embarkation, they do, and ſhall conſider the permiſſion from your excellency, to any negroes belonging to the citizens of theſe ſtates, to leave this city, as an infraction of the treaty of peace, agreeable to their repreſentation of the ninth inſtant; and that they do not, neither can they conſider the ſaid embarkation, or any other of a ſimilar nature, as an embarkation which the evacuation of this place requires.

From the Commiſſioners to his excellency General Waſhington.

NEW YORK, 18th January, 1784.

SIR,

THE Britiſh troops being wholly withdrawn from this place, it only remains to the cloſing the buſineſs under your excellency's commiſſion to us of the eighth of May ult. that we ſhould report our proceedings.

We presume it will be needless to recapitulate our former communications, and therefore, take the liberty of referring to our letters to your excellency of the thirtieth of May, fourteenth and eighteenth of June last, with their respective enclosures.

As Sir Guy Carleton did not, except in one or two instances, answer our representations, we forbore to make further representation. We interpreted his silence into a determination that all future application from us should remain equally unnoticed, and therefore presumed, that they would be, not only fruitless, but also derogatory to the dignity of the sovereignty by whose authority we were commissioned.

From our first arrival in this city hitherto, we have, whenever we were formally requested by the British commissioners, assisted them in superintending embarkations. These embarkations were always made in vessels in the pay and service of the crown of Great Britain, and the superintendence consisted in visiting the ships after they were laden and ready for sailing, and taking an account of the negroes, which the captain informed us, were on board, and which were also produced to us. The captains were then asked, whether they had any other American property on board. They all answered in the negative, and this was received as evidence, without further scrutiny, or examination. A descriptive list of negroes your excellency will receive with this. This list, as to the names of the negroes and places of residence of their masters, is formed from the declaration of the negroes themselves, made to the British commissioners in our presence.

We conceive it requisite to inform your excellency, that Sir Guy Carleton retained and exercised the authority of entering and clearing out merchant vessels, at this port, which were never submitted to any inspection; and consequently, it is impossible for us to determine, for a certainty, the number of negroes, or the amount of other property belonging to the citizens of the United States, which were carried away in those vessels; neither do we know that any measures were used by the British government to ascertain these points. Sir Guy Carleton affected to distinguish between the cases of such negroes as came within the British lines, in consequence of the promises of freedom and indemnity held out in the proclamations of his predecessors, and such as came in, either previous to the proclamations, or subsequent to the cessation of hostilities. Negroes of the first description he supposed not included in the treaty, as the public faith had, prior to the treaty, been pledged to them for their security against the claims of their former masters. Admitting this distinction to be just, we would mention a circumstance to your excellency, which we suppose no otherwise material, than to show, that Sir Guy Carleton, or, at least, that his subordinate officers, did not intend to observe the treaty, even agreeable to their own limited construction of it.

Whenever the negroes, at an inspection of an embarkation, were examined, they always, except in a very few instances, produced a printed certificate from the commandant of the city, countersigned

by his ſecretary, purporting that they came within the Britiſh lines in conſequence of the proclamation iſſued by Sir Henry Clinton and others. We are ſenſible, as there was no mode preſcribed for inveſtigating theſe matters, that it was impoſſible the commandant or his ſecretary could, in every caſe, have ſufficient proof of the time of the negroes coming in, and therefore, concluded there muſt be an abuſe. In this we were not deceived; for it appears, that certificates, with blanks, were given by the commandant to individuals, to be filled up as their convenience might require. One of theſe blank certificates has fallen into our hands, and we tranſmit it to your excellency.

Sir Guy Carleton, during the whole of the time from our arrival in this city, until his departure, on the 25th of November, exerciſed the ſame kind of juriſdiction in this city, and on Long Iſland and Staten Iſland, and as fully as his predeceſſors in command had, at any period of the war. And in the exerciſe of this juriſdiction, he retained the regulation of the commerce of this port, continued to leaſe and receive the rents of a number of houſes in this city, which had been previouſly taken, and the rents appropriated by the Britiſh government here, as belonging to perſons reſiding without their lines, and by them, therefore, declared as being in rebellion. He refuſed, except in a very few inſtances, to reſtore perſons, who were deſirous of returning to their former habitations, the poſſeſſion of their eſtates, and cauſed ſeveral citizens of the United States to be apprehended, and tried by courts martial. A conſiderable embarkation of negroes took place the day this city was evacuated. The hurry of buſineſs, on the part of the Britons, is the oſtenſible reaſon why we were not invited to the inſpection, as appears by a letter from captain Gilfillan.

We have the honor to be, &c.

EGBT. BENSON.
W. S. SMITH.
DAN. PARKER.

THE BLANK CERTIFICATE.

NEW YORK, April 23d, 1783.

G. B.

THIS is to certify, to whomſoever it may concern, that the bearer hereof a negro, reſorted to the Britiſh lines, in conſequence of the proclamations of Sir William Howe and Sir Henry Clinton, late commanders in chief, in America; and, that the ſaid negro has hereby his excellency Sir Guy Carleton's permiſſion to go to Nova Scotia, or wherever elſe may think proper.

By order of Brigadier general Birch, commandant of the city and garriſon of New York, this day of April, Annoque Domini, 1783.

E. WILLIAMS, Major of Brigade.

Mr. Hammond, Miniſter Plenipotentiary of Great Britain, to Mr. Jefferſon, Secretary of State.

PHILADELPHIA, Dec. 19th, 1791.

SIR,

I HAVE the honor of acknowleding the receipt of your letter of the 15th currt. and of expreſſing my perfect approbation of, and concurrence in, the mode you have ſuggeſted of diſcuſſing the ſeveral particulars relative to the non-execution of the definitive treaty of peace.

In conformity to your example, I am now preparing an abſtract of the circumſtances that appear to me contraventions, on the part of the United States, of the fourth, fifth, and ſixth articles of that treaty. This abſtract I intend to preſent to you, ſir, with as little delay as the extenſive nature of the ſubject under conſideration will admit.

I have the honor to be, with ſentiments, &c.

Your moſt obedient humble ſervant,

GEO. HAMMOND.

Mr. Hammond, Miniſter Plenipotentiary of Great Britain, to Mr. Jefferſon, Secretary of State.

PHILADELPHIA, March 5, 1792.

SIR,

IN conformity to the mode which you have purſued and ſuggeſted, I have now the honor of ſubmitting to you an abſtract of ſuch particular acts of the United States, as appear to me infractions, on their part, of the definitive treaty of peace, concluded between the king my maſter and the United States. The neceſſity of collecting, from diſtant parts of this continent, the requiſite materials, of combining and arranging them, has occaſioned a much longer delay in preſenting to you this abſtract, than I at firſt apprehended: I truſt, however, that it will be found ſo comprehenſive as to include every cauſe of complaint, reſulting from the treaty, and ſo fully ſubſtantiated as to require no ſubſequent elucidations to prove and to confirm the facts which I ſhall ſpecify.

Many of the legiſlative acts and judicial determinations which I ſhall adduce as violations of the treaty, having been common to a majority of the ſtates, I have thought it expedient, in order to avoid repetitions, not to diſcuſs the tendency and extent of their operation in the ſeveral ſtates diſtinctly and ſeparately, but to reduce the infractions under general heads, and to throw into the form of an appendix references to juſtify and explain the documents by which they are authenticated.

Although I have employed every exertion in my power, to acquire the moſt accurate and general information upon the reſpective points comprehended in this abſtract, it is ſtill poſſible, that many materials may have been out of my reach, or, that, in the extenſive collection of laws and of other documents which I have been obliged to peruſe and digeſt, many objects may have eſcaped my notice. It is poſſible,

that acts of the ſtates, of which I have complained as militating againſt the treaty of peace, may have been repealed or modified by ſucceeding legiſlatures; and that deciſions of the ſtate courts, which I have alleged as violations of the treaty, may have been rectified by ſubſequent determinations. I am not conſcious of any errors or miſrepreſentations of this nature; but if any ſuch ſhould exiſt in the abſtract, I deſire you, ſir, to be perſuaded, that they have been totally unintentional on my part, and that I ſhall be extremely ſolicitous to have them explained and corrected.

Immediately after the ratification of the definitive treaty of peace, the congreſs of the United States, by a proclamation, announcing that event, and by a reſolve, dated 14th Jan. 1784, required and enjoined all bodies of magiſtracy, legiſlative, executive, and judiciary, to carry into effect the definitive articles, and every clauſe and ſentence thereof, ſincerely, ſtrictly, and completely—and earneſtly recommended to the legiſlatures of the reſpective ſtates, to provide for the reſtitution of all eſtates, rights, and properties confiſcated, belonging to real Britiſh ſubjects, and of eſtates, rights, and properties of perſons reſident in diſtricts in poſſeſſion of his majeſty's arms, between the 30th November, 1782, and 14th January, 1784, who had not borne arms againſt the United States; and that perſons of any other deſcription, ſhould have liberty to go to any part of the United States, to remain twelve months, unmoleſted in their endeavours to obtain the reſtitution of their eſtates, rights, and properties confiſcated. It was alſo recommended to the ſeveral ſtates to reconſider and reviſe all laws regarding the premiſes, ſo as to render them perfectly conſiſtent with juſtice and that ſpirit of conciliation, which, on the return of the bleſſings of peace, ſhould univerſally prevail—and it was farther recommended, that the eſtates, rights, and properties of ſuch laſt mentioned perſons ſhould be reſtored to them, they refunding the bona fide price, paid on purchaſing any of the ſaid lands, rights, and properties, ſince the confiſcation.

In conſequence of the little attention, which had been manifeſted to this proclamation and recommendation, and of the anſwer given (20 Feb. 1786) by the marquis of Carmarthen, to the requiſitions of Mr. Adams, reſpecting the poſts and territories, ceded by the treaty of peace, to the United States, the congreſs tranſmitted, in April, 1787, a circular letter to the governors of the reſpective ſtates, recommending it to the different legiſlatures, to repeal ſuch acts, or parts of acts, as were repugnant to the treaty of peace between his Britannic majeſty and the United States, or any article thereof, and that the courts of law and equity ſhould be directed and required, in all cauſes and queſtions cognizable by them reſpectively, and ariſing from, or touching the ſaid treaty, to decide and adjudge, according to the tenor, true intent, and meaning of the ſame, any thing in the ſaid acts or parts of acts to the contrary thereof, in any wiſe, notwithſtanding.

In this circular letter, after enforcing in the moſt energetic manner, the regard due to ſolemn, national compacts, and the impro-

priety of the individual ſtates attempting to contravene, or even diſcuſs ſtipulations, which had been ſanctioned by their general government, the congreſs farther declare, "they have deliberately and diſpaſſionately examined and conſidered the ſeveral facts and matters urged by Great Britain as infractions of the treaty of peace, on the part of America; and regret, that, in ſome of the ſtates, too little attention appears to have been paid to the public faith, pledged by the treaty."

It is obſervable, that congreſs, neither in this proclamation nor recommendation, take any notice of the fourth article of the treaty of peace, by which it was *agreed* that creditors on either ſide, ſhould meet with no lawful impediment to the recovery of the full value, in ſterling money, of all bona fide debts theretofore contracted; nor does either the proclamation or recommendation extend to the ſtipulations in the cloſe of the fifth article, whereby it was *agreed* that all perſons who have any intereſts in confiſcated lands, either by debts, marriage ſettlements, or otherwiſe, ſhould meet with no lawful impediment in the proſecution of their juſt rights.

This omiſſion of theſe eſſential points can only be aſcribed to the conviction that congreſs entertained, that it was totally unneceſſary to ſpecify them, as they were ſtipulations poſitive and obligatory upon the individual ſtates, and that no local regulation was competent either to confirm or invalidate them. It does not, however, appear that this proclamation and recommendation had any general and extenſive effect upon the legiſlatures of the reſpective ſtates; as, in conſequence thereof, even the formality of a municipal adoption of the treaty, either in the nature of a repeal of exiſting laws, repugnant to the treaty of peace, or of a declaratory law, eſtabliſhing the treaty of peace as the ſupreme law of the land, ſeems to have been confined to a ſmall portion of the ſeveral ſtates.

Having thus ſtated the meaſures purſued by congreſs to give validity and effect to the engagements contained in the treaty of peace, it is now expedient to ſpecify, in detail, the particular acts which Great Britain conſiders as infractions of the treaty, on the part of the United States, and it will tend to ſimplify the diſcuſſion to make the following arrangement:

I. To define what congreſs has enforced or omitted.

II. To advert to the conduct obſerved by the individual ſtates generally, in reſpect to the treaty of peace,

In not repealing laws that exiſted antecedently to the pacification,

In enacting laws ſubſequent to the peace in contravention of the treaty,

And in the deciſions of the ſtate courts upon queſtions affecting the rights of Britiſh ſubjects.

As to the firſt of theſe points, it cannot be preſumed, that the commiſſioners, who negociated the treaty of peace, would engage in behalf of congreſs, to make recommendations to the legiſlatures of the reſpective ſtates, which they did not expect to be effectual, or enter into direct ſtipulations, which they had not the power to

enforce. And yet the laws were not repealed which congreſs recommended to be repealed, nor were the ſtipulations enforced which congreſs was abſolutely pledged to fulfil. It does not appear—that any of the ſtate legiſlatures repealed their confiſcation laws, or provided for the reſtitution of all eſtates, rights and properties of real Britiſh ſubjects, which had been confiſcated, and of perſons reſident in diſtricts in the poſſeſſion of his majeſty's arms, who had not borne arms againſt the United States—that perſons of other deſcriptions, were at liberty to remain twelve months in the United States, unmoleſted in their endeavours to obtain the reſtoration of their confiſcated eſtates, rights and properties—that the acts of the ſeveral ſtates, which reſpected confiſcations, were, in many of the ſtates, reconſidered or reviſed—nor finally, have Britiſh creditors been countenanced or ſupported, either by the reſpective legiſlatures or by the ſtate courts, in their endeavours to recover the full value of debts, contracted antecedently to the treaty of peace. On the contrary, in ſome of the ſtates, the confiſcation laws have been acted upon ſince the peace, and new legiſlative regulations have been eſtabliſhed to carry them into effect. In many of the ſtates, the ſubjects of the crown, in endeavouring to obtain the reſtitution of their forfeited eſtates and property, upon refunding the price to the purchaſers, have been treated with indignity—menaced, expoſed to perſonal danger, and, in ſome inſtances, impriſoned. Proſecutions have been commenced againſt his majeſty's ſubjects for the part which they had taken in the late war. In many of the ſtates, laws have actually paſſed, delaying the legal inveſtigation of juſt claims, and abridging the demands of Britiſh merchants. Local regulations, in reſpect to the tender of property, in diſcharge of juſt debts, have prevailed to ſuch an extent as to amount to a prohibition of ſuits. Paper money, emitted by particular ſtates, has been made at its nominal value, legal tender and payment for all debts, for the recovery of which actions were commenced at the time when money of that deſcription was greatly depreciated. Creditors, too, in ſome of the ſtates, were expoſed to the neceſſity of taking real or perſonal property, at a valuation made by a partial, prejudiced, or intereſted neighbourhood, while, in other ſtates, when the queſtion of alienage has been under diſcuſſion, the courts of law and equity have determined, that a ſubject of Great Britain, reſiding within the king's dominions, at and after the declaration of independence, was not competent to acquire or hold real property within the United States. In many of the ſtate courts, deciſions have taken place, reducing the amount of Britiſh debts, in violation of the terms of the original contracts, and ſome of thoſe courts, have poſitively refuſed to take cognizance of ſuits, inſtituted for the recovery of Britiſh debts. Theſe facts will be more fully illuſtrated under the next head of arrangement.

II. To advert to the conduct obſerved by the individual ſtates, generally, in reſpect to the treaty of peace.

1ſt. In not repealing the laws that exiſted antecedently to the pacification. Appendix A.

During the war, the reſpective legiſlatures of the United States, paſſed laws to confiſcate and ſell, to ſequeſter, take poſſeſſion of, and leaſe, the eſtates of the loyaliſts, and to apply the proceeds thereof, towards the redemption of certificates and bills of credit, or towards defraying the expenſes of the war—to enable debtors to pay into the ſtate treaſuries, or loan offices, paper money, then exceedingly depreciated, in diſcharge of their debts. Under ſome of the laws, many individuals were attainted by name, others were baniſhed for ever from the country, and, if found within the ſtate, declared felons, without benefit of clergy. In ſome ſtates, the eſtates and rights of married women, of widows, and of minors, and of perſons who had died within the territories poſſeſſed by the Britiſh arms, were forfeited. Authority alſo was given to the executive department, to require perſons who adhered to the crown, to ſurrender themſelves, by a given day, and to abide their trials for high treaſon; in failure of which, the parties ſo required, were attainted, were ſubject to, and ſuffered, all the pains, penalties, and forfeitures awarded againſt perſons attainted of high treaſon. In one ſtate (New York) a power was veſted in the courts, to prefer bills of indictment againſt perſons alive or dead, who had adhered to the king, or joined his fleets or armies (if in full life, and generally reputed to hold or claim, or, if dead, to have held or claimed, at the time of their deceaſe, real or perſonal eſtate.) And upon notice or neglect to appear and traverſe the indictment, or, upon trial and conviction, the perſons charged in the indictment, whether *in full life or deceaſed*, were reſpectively declared guilty of the offences charged, and their eſtates were forfeited, whether in poſſeſſion, reverſion, or remainder. In ſome of the ſtates confiſcated property was applied to the purpoſes of public buildings and improvements; in others, was appropriated as rewards to individuals for military ſervices rendered during the war; and, in one inſtance, property mortgaged to a Britiſh creditor, was liberated from the incumbrance by a ſpecial act of the legiſlature, as a proviſion for the repreſentatives of the mortgager, who had fallen in battle. No. 1 to 30 inclusive. No. 31 & 32. No. 33. No. 34.

A general repeal of theſe laws, under the ſtipulated exceptions, would have been a compliance with the terms of the treaty of peace. But the reſtitution of the eſtates, rights and properties, of real Britiſh ſubjects, or of perſons reſident in diſtricts in poſſeſſion of his majeſty's arms, and who had not borne arms againſt the United States, was not provided for by any local law, or general regu-

lation, nor did any ſuch law or regulation prevail, to ſupport perſons of other deſcriptions in their endeavours to obtain the reſtitution of ſuch of their eſtates, rights, and properties, as had been confiſcated. Some of the ſtate legiſlatures, it is true, ſoon after the peace, paſſed acts, in conformity to the treaty, to provide againſt farther confiſcations, and to deliver up, under certain conditions and aſſeſſments, ſuch lands and tenements, the property of perſons deſcribed in confiſcation laws, as had not been confiſcated by proceſs of law. Other ſtates have, in certain inſtances, upon application of the children or friends of attainted perſons, paſſed laws to reſtore the ownerſhip of forfeited eſtates, upon the payment of a given price in depreciated certificates, and, in others, without exacting any conſideration for the property reſtored. Acts of pardon and oblivion are alſo to be found in the ſtatute book of ſome of the ſtates, but fettered with ſuch qualifications, exceptions, and reſtraints, as to exclude effectually from the hope of recovery or reſtitution, numbers who were expreſsly within the meaning and intention of the treaty.

2d. In enacting laws ſubſequent to the peace in contravention of the treaty.

In ſtating the particular acts that relate to this head of arrangement, it will be proper to place them in three claſſes.

1. Such as relate to the eſtates of the loyaliſts;

2. Such as reſpect their perſons; and laſtly,

3. Such as obſtruct the recovery of debts due to the ſubjects of the crown.

1. Many of the confiſcated eſtates being undiſpoſed of, not only at the time the preliminary articles of peace were ſigned, but even after the concluſion of the definitive treaty, it would have been perfectly conſiſtent with juſtice, and that ſpirit of conciliation which ought to have prevailed upon the return of the bleſſings of peace, to have ſuſpended the ſales of property not then diſpoſed of, to have repealed the laws of confiſcation, under certain limitations, and to have reſtored the rights of married women, of widows, and of minors; and though the policy of the different ſtate governments might exact a rigid adherence to forfeitures, incurred by perſons who had actually borne arms during the war, yet ſuch a ſuſpenſion of ſales, repeal of laws, and reſtitution of property, might have been effected with great convenience, in a number of inſtances, and might have been liberally extended to real Britiſh ſubjects, and to perſons, who had not borne arms againſt the United States, but who, from local re-

fidence, were liable to the imputation of offence, and to the operation of fevere penal laws. Appendix B.

But immediately after the preliminary articles were ſigned, and for many years ſubſequent to the peace, acts paſſed the different legiſlatures of the United States—to confirm forfeitures and confiſcations, made by virtue of former laws; to ſecure in their poſſeſſions, perſons who had purchaſed forfeited lands, tenements, goods, and chattels; to ſell confiſcated property that remained unſold; to re-ſell ſuch as had been already ſold, and to which no title had been given; and to releaſe from their bargains, perſons who had miſconceived the modes of payment. In one ſtate (Georgia) many years ſubſequent to the peace, an act paſſed to compel, under ſevere penalties, the diſcovery of debts due to merchants and ſubjects of the crown of Great Britain, that had been ſequeſtered by particular regulations. Under this act, the auditor of that ſtate has publiſhed a formal notice, manifeſting his determination to purſue the rigid letter of the law, and to ſequeſter Britiſh debts, in defiance of the ſolemnity of national engagements. In another ſtate (Maryland) offers have been held out by legiſlative authority, to perſons, who, within limited periods, ſhould make diſcovery of Britiſh property, to compound for the ſame, by granting certain portions of ſuch as ſhould be diſcovered: and theſe legiſlative acts extended to forfeited rights and property, generally, without diſcrimination or diſtinctions of perſons plainly defined in the treaty; diſtinction which the ſpirit of conciliation, and the feelings of humanity, moſt forcibly recommended, and which the reſpective ſtates were fully competent to eſtabliſh and enforce, when applied to eſtates and property, either unſold at the period of the peace, or for which (owing to the default of the purchaſers) no titles had been given. No. 1. No. 2. No. 3 & 4. No. 5 & 6. No. 7. No. 8. No. 9 & 10.

2d. In reſpect to the perſons, who, under the treaty of peace were to have free liberty to come to any part of the United States. The permiſſion in their favor was in terms, the moſt general and unqualified; and though the period, in which perſons of one deſcription were to remain in this country, was reſtricted, none, however exceptionable their political conduct might have been conſidered by the United States, were debarred from the means of perſonal application, and of endeavouring to obtain the reſtitution of ſuch of their eſtates, rights, and properties, as had been confiſcated. As to thoſe who, under the appellation of Britiſh ſubjects, had incurred no other imputation of criminality, than that of adherence to their ſovereign, and as to others, who, though reſident in diſtricts in poſſeſſion of his majeſty's forces, had not borne arms againſt the

Appendix C.

United States, the expreſs proviſion in the treaty for the reſtitution of the eſtates and properties of perſons of both theſe deſcriptions, certainly comprehended a virtual acquieſcence in *their* right to reſide, where their property was ſituated, and to be reſtored to the privileges of citizenſhip. This virtual acquieſcence may be juſtly aſſumed as an argument in favor even of thoſe who had borne arms againſt the United States, and who (if any inſtances of this kind exiſted) had been ſucceſsful in their endeavours to obtain the reſtoration of their confiſcated eſtates on refunding to the purchaſers the bona fide price that had been paid. Acts, however, of proſcription, attainder, and baniſhment, which had paſſed during the war, and which extended, not only to thoſe who had borne arms againſt the United States, but alſo to thoſe who had borne arms againſt their allies; to perſons who had left particular ſtates, and gone off with the fleets or armies of Great Britain, to thoſe who had attached themſelves to, adhered to, or taken the protection of the government, fleets, or armies of Great Britain; who were, and ſtill remained abſent from
No. 1. the ſtates; who had withdrawn themſelves from, and ſtill reſided beyond the limits of the United States, though repealed as to certain individuals therein named, remained in full force, againſt numbers of every deſcription of perſons defined in the treaty. And ſubſequent to the peace, acts paſſed ſeveral of the ſtate legiſlatures, for the purpoſe
No. 2 & 3. of aſſerting the rights of the ſtates, for preſerving their in-
No. 4. dependence, and expelling ſuch aliens as might be danger-
No. 5.
No. 6. ous to the peace and good order of government: whereby perſons who had left the ſtates, gone off to, or taken the protection of the government, fleets or armies of Great Britain; or aided, aſſiſted, or abetted the ſame; or had borne arms, exerciſed, or accepted military commands;
No. 7 & 8. or owned, or fitted out armed veſſels to cruize againſt the United States or their allies; or had been joined to the fleets or armies, or to any volunteer corps of the king, or
C. had held any office, at particular boards inſtituted during
No. 2. the war; and all other abſentees named in divers acts of confiſcation, or who had been baniſhed, or ſent out of the ſtates, were forbidden to return without licence, at their peril, or were ſubject to diſqualifications, to proſecution,
No. 2, 7, 8. and tedious impriſonment, if they remained after notice
No. 6. given to depart the ſtate. In ſome ſtates the ceremony of notice was diſpenſed with, and the parties upon being found therein were liable to impriſonment, to the confiſcation of the property they poſſeſſed, and, in other ſtates, to the pe-
No. 9 & 10. nalty of death. In ſome of the ſtates, it is true, permiſſion was given to certain individuals to return unconditionally;
No. 12, 13, 14 but in others the indulgence was of momentary duratio

and the unfortunate objects of it were then baniſhed from their connections and friends for ever. Appendix C.

To this it may be added, that though the treaty of peace expreſsly declares, That no future confiſcations ſhall be made, nor any proſecutions commenced againſt any perſons for or by reaſon of the part which they might have taken during the war, confiſcation acts have paſſed ſince No. 15. the preliminary acts were ſigned, and ſales have been made of confiſcated eſtates long ſince the peace. Acts have alſo paſſed for granting effectual relief in caſes of treſpaſſes, No. 16. and pointing out modes for the recovery of property acquired while the king's troops occupied particular diſtricts, whereby it was made lawful for any inhabitants of the ſtate, who had left their places of abode, and had not ſince voluntarily put themſelves into the power of the king's troops, to bring actions of treſpaſs againſt any perſon who had occupied, injured, or deſtroyed their eſtate, either real or perſonal, within the power of the king's troops, or againſt perſons who had received or purchaſed ſuch goods or effects; and the purchaſers of property, under ſales made in diſtricts occupied by the royal army, were required No. 17. to reſtore and deliver up the ſame under the penalty of forfeiting treble the value of ſuch property, ſo obtained, and neglected to be delivered or reſtored; to the great inconvenience of many who had uſed, poſſeſſed, or acquired real and perſonal property, under the ſanction of the only authority exiſting in the diſtricts wherein the property was ſituated, an authority juſtified by the laws and uſages of nations, and confirmed by the letter and ſpirit of the treaty of peace. The perſons who were the objects of the treſpaſs-law were ſtill more oppreſſed by its operation, in conſequence of a ſubſequent act, ſuſpending proſecuti- No. 18. ons for acts done to promote the American cauſe, which was manifeſtly levelled at the friends of the crown, and deprived them of the means of ſatisfaction for thoſe acts of outrage, which had involved them in loſs and ruin. And, in order to provide for the enforcement of theſe treſpaſs-laws againſt abſentees, the remedy of attachment No. 19. againſt abſconding debtors was extended to the recovery of damages ſuſtained by the injury, deſtruction or occupancy of real or perſonal eſtates during the war, whereby abſentees, though in a ſtate of legal exile, were conſidered as abſconding debtors.

3d. The ſecuring of the enormous debt due from the citizens of the United States to the merchants of Great Britain, being an object of important conſideration to his majeſty's government, in arranging and diſcuſſing the terms of the treaty of peace, was expreſsly provided for in it; though ſtipulations of that nature are not uſual in

Appendix D.

treaties between independent nations; as the engagements of individuals of different countries are not liable to the intervention of partial local regulations, but reſt upon the ſacred and permanent baſis of univerſal juſtice. The magnitude of this object cannot, therefore, be better aſcertained, than by this circumſtance; and accordingly a ſolemn and unequivocal ſtipulation was introduced into the treaty "That creditors on either ſide ſhould meet with no lawful "impediment to the recovery of the full value, in ſterling "money, of all bona fide debts heretofore contracted;" a ſtipulation, as preciſe and definite, as to the meaſure and mode of recovery and payment, as it was general and unqualified in reſpect to the debts to be recovered. "The full "value in ſterling money" could only mean the value, to be aſcertained by the nature and terms of the original contract between debtor and creditor, and to be paid in ſterling money according to the rate of exchange prevailing between the two countries. "All bona fide debts heretofore contracted" comprehended every ſpecies of debt, due to the creditors on either ſide, contracted antecedent to, and which remained unpaid at, the period of concluding the treaty of peace.

Hitherto Great Britain has anxiouſly, though in vain, expected from the United States, the fulfilment of this

No. 1. article, in behalf of her ſuffering merchants: But prohibitions of ſuits and perſonal diſabilities, created during the war, to commence actions, remained unrepealed, and have been protracted to periods ſubſequent to the peace.

No. 2, 3, 4, 5, 6. Acts, too, have paſſed ſince the peace, ſuſpending, for a

No. 7. time, the recovery of debts and the iſſuing of executions.

No. 8. Courts have been authorized by law to direct and admit the

No. 9. reduction of intereſt; and the abſolute reduction of intereſt, for a limited number of years, has been provided for.

Laws which exiſted before the war, compelling the

No. 10. creditors to take the debtors' land, at an appraiſed value, remained unrepealed, notwithſtanding the change of circum-

No. 11. ſtances in the two countries had, in ſome of the ſtate courts, tended to eſtabliſh principles of alienage, which have been carried to ſo rigorous an extent, applied to Britiſh ſubjects, as to inſpire doubts of their competency to acquire or hold real property within the United States.

No. 12. New tender and valuation laws have been paſſed ſubſequent to the peace, by the operation of which, creditors were

No. 13. reduced to the alternative, either of accepting, under partial

No. 14. appraiſements, reſulting from preſcribed modes of valuation, real and perſonal property, which bore no proportion to the value of the original debt, and for which they could command no price whatſoever, or of having the perſons of their debtors protected from arreſts, or diſcharged from

exceptions. British ſubjects and their agents were compelled to give ſecurity to pay all juſt debts due from the creditors to any citizen of the ſtate, as far as the amount of the debts to be collected, before any debtor could be compelled to make payment. Paper money emitted and made current, for a number of years, was conſtituted legal tender for payment and diſcharge of any debt, bargain or ſale, bond, mortgage, ſpecialty, or contract, whatſoever, "already made or hereafter to be made," either *for ſterling money*, ſilver money, dollars, or any ſpecies of gold or ſilver. Inſtalment laws have paſſed, reſtraining, for a time, the commencement of ſuits, and then limiting the modes of recovering all debts due previous to the month of February 1782, and of obligations taken ſince that time for debts previouſly incurred, to three annual payments, of one-third of the principal and intereſt in each ſucceſſive year. Theſe reſtrictions and limitations were afterwards extended to all debts contracted previous to the 1ſt of January, 1787; and when theſe limitations, in which the Britiſh merchants moſt patiently and benevolently acquieſced, were about to expire, a new inſtalment law was paſſed, protracting the period of payments five years longer, and reſtraining the recovery even of bonds or notes, given payable according to the inſtalments preſcribed by the former acts, to the manner directed in the laſt inſtalment law.

Appendix D. No. 15. No. 16. No. 17, 18, 19. No. 20. No. 21. No. 22.

It is worthy of obſervation that this latter inſtalment law, paſſed ſubſequent to the formation of the Federal conſtitution, which ordains, that all treaties made, or which ſhould be made, under the authority of the United States, ſhould be the ſupreme law of the land; and that the judges in each ſtate, ſhould be bound thereby, and every ſenator and repreſentative of the United States, members of the ſeveral ſtate legiſlatures, and all executive and judicial officers, both of the United States and of the ſeveral ſtates, were to be bound by oath or affirmation to ſupport that conſtitution.

3d. The laſt point of diſcuſſion relates to the deciſions of ſtate courts, upon queſtions affecting the rights of Britiſh ſubjects; in reſpect to which the diſpenſations of law have, for the moſt part, been as unpropitious to the ſubjects of the crown as the legiſlative acts of the different aſſemblies throughout this continent: It muſt, however, be allowed that in one ſtate (Maſſachuſetts-Bay) where great property was at ſtake, juſtice has been liberally diſpenſed, and, notwithſtanding a particular regulation of the ſtate warranted the deduction of that portion of the intereſt on Britiſh debts which accrued during the war, the courts, in conformity to the plain terms of the treaty, have admitted

Appendix E.

and directed the quantum of the demand to be regulated by the original contract: and where the contract bore intereſt, or the cuſtom of the trade juſtified the charge, the full intereſt has been allowed to Britiſh creditors, notwithſtanding the intervention of war. On the other hand it is to be lamented, that in a more diſtant ſtate (Georgia) it was a received principle, inculcated by an opinion of the higheſt judicial authority there, that as no legiſlative act of the ſtate exiſted, confirming the treaty of peace with Great Britain, war ſtill continued between the two countries; a principle which may perhaps ſtill continue, in that ſtate, as it is one of thoſe that have not, to this moment, paid any municipal regard to the different recommendations of congreſs to the ſeveral legiſlatures, to repeal all laws inconſiſtent with the treaty of peace.

The deciſions of the ſtate courts having affected the claims and perſons of Britiſh ſubjects, a ſhort view will be taken of ſome of the moſt important deciſions, under theſe two heads.

1ſt. In the proſecution of claims inſtituted by Britiſh merchants for debts contracted previous to the war, proof of the uſage of the trade to allow intereſt after the expiration of a year on the amount of the goods ſhipped, or of the ſpecific contract between the debtor and creditor, has been uniformly eſtabliſhed; the full value of the debt, to be recovered, ought, conſequently, to have been nothing ſhort of the debt and intereſt according to the uſage of the trade or to the terms of the contract; but under the direction of many of the courts, juries have invariably abated intereſt on the Britiſh debts for ſeven years and a half. Even the ſolemnity of obligations has not been found of ſufficient force to ſecure the creditor from this deduction; it having been determined—that obligations, which on the face of the contract itſelf bore intereſt, were upon no better footing, in this reſpect, than book-debts, in which the intervention of war and the prohibitory reſolves of congreſs were deemed ſufficient grounds to deſtroy the uſage between the Britiſh and American trader, by abating the intereſt for the period the war continued—and that as the debtor was deprived of the means of making payment, unleſs by a violation of a poſitive reſtrictive law, prohibiting remittances as a means of ſtrengthening the enemy, and as it would have been criminal to have remitted during the war, no man ſhould ſuffer for his obedience to the laws, or be anſwerable for the intereſt, while the laws of the land reſtrained him from remitting the principal. The treaty of peace too has been conſidered as having no effect upon this queſtion, it having been held, that the treaty only ſecured the mutual recovery of debts,

No. 1.

No. 2 & 3.

when the amount was aſcertained; but the amount of the debts was to be ſettled by the laws of the land. Appendix E.

In one ſtate, particularly, in which the claim of intereſt has been generally involved in the recovery of Britiſh debts, that had been paid, in conſequence of legiſlative acts, into the ſtate treaſury, the ſuperior court of the ſtate determined that the conſtruction of the treaty and the acts of the ſtate, entitled the creditor to recover the principal of his debt and all intereſt thereon, which had not ariſen during the war, and that as by the intervention of war, the means of recovering Britiſh debts were ſuſpended, the claim of intereſt, during the ſuſpenſion, was inadmiſſible. No. 4

It was admitted that, notwithſtanding the payments into the treaſury, the treaty of peace reſtored the right of action; but intereſt was recoverable only from the date of the definitive treaty.

In one of the ſouthern ſtates (Virginia) where debts to a very conſiderable amount are depending, the ſuits that have been inſtituted for their recovery, have been referred to the diſtrict courts of the ſtate, and ſome of the cauſes having ſtood for ſeveral years under a mere formal continuance upon the records, have been adjourned, for difficulty, to the general court, wherein they ſtill remain undecided, and others, it is ſaid, have been actually diſmiſſed. The delay of juſtice, operating equally as a denial of juſtice, would have been effectually reformed in that ſtate, by the proviſions of a particular law, giving ſummary relief in determining diſputes wherein ſubjects of thoſe countries, which had acknowledged or ſhould hereafter recognize the independence of the United States, were parties againſt the citizens of that ſtate; but unfortunately for the Britiſh creditors, upon the concluſion of peace, it was ſoon found that this ſummary relief extended to Britiſh debts in common with the claims of other foreigners, whoſe ſovereigns had recognized the independence of the United States, and that ſome of the judges favored the idea; and ſo much of the act as points out and authorizes the mode of proceeding in ſuits wherein foreigners were parties, was repealed, and at this moment, the means of recovery depend ſolely upon limitations and conditions created by local regulations, which are in direct oppoſition to the recommendatory reſolves of congreſs, and palpable infractions of the fourth article of the treaty of peace. No. 5 No. 6. No. 7.

The few attempts to recover Britiſh debts in the county courts of that ſtate, have univerſally failed; and theſe are the courts, wherein, from the ſmallneſs of the ſum, a conſiderable number of debts can only be recovered.

A farther hardſhip, under which the Britiſh creditors labour, is, that they are anſwerable and proceeded againſt

Appendix E. by courſe of law for every claim brought againſt them; when at this moment, it is not a ſettled point, whether even the federal court, in that diſtrict, will entertain in their behalf, ſuits to which that juriſdiction is competent, the circuit court of the United States, after very ſolemn argument, having adjourned the queſtion.

In addition to theſe obſervations, it is neceſſary to mention, that in ſome others of the ſouthern ſtates, there does not exiſt a ſingle inſtance of the recovery of a Britiſh debt in their courts, though ſo many years have expired ſince the eſtabliſhment of peace between the two countries.

2d. The proceedings of the ſtate courts, upon points which affected the perſons of Britiſh ſubjects, have been No. 8. equally repugnant to the terms of the treaty. In one ſtate, ſuits have been inſtituted under the acts for granting a more effectual relief in caſes of certain treſpaſſes, for the recovery of damages reſulting from the occupancy of eſtates, held in diſtricts in the poſſeſſion of his majeſty's arms, by virtue of licenſe and permiſſion from the commanders in chief; and though the licenſe and permiſſion were pleaded, and it was ſtated upon the record, that after the declaration of independence by congreſs, there was open war between the two countries, that the place where the eſtates were ſituate, continued in the uninterrupted poſſeſſion of the royal army during the whole period they were occupied under ſuch licenſe and permiſſion, and as long as the ſame remained in force—that by the treaty of peace, the claim which the ſubjects or citizens of either of the contracting parties, had to recompenſe or retribution for injuries done to each other, in conſequence of, or relating to, the war, were mutually relinquiſhed and releaſed; that the parties, againſt whom the ſuits were inſtituted, were ſubjects of the crown, reſiding in a diſtrict occupied by the royal army, where the eſtate in queſtion was ſituate, under the protection of the king, then at war with this country. Theſe pleas were over-ruled by the court, as inſufficient, and damages have been awarded againſt the parties for the time the eſtates were ſo occupied by them, to the great injury of numbers, who had, during the war, actually paid a competent rent for the property they occupied under the authority of the commander in chief.

No. 9. In another ſtate, an indictment has lately been preferred againſt a ſubject of the crown, for the murder of a citizen of the United States, found, under ſuſpicious circumſtances, within the royal lines. Though the grand jury did not find the bill of indictment againſt the party, as the facts alleged were not ſufficiently proved, they poſt-

poned a farther enquiry to a future time, to give the profecutor an opportunity of producing farther teſtimony, in which the court acquieſced, and refuſed to diſcharge the priſoner, obſerving, when the counſel moved for his diſcharge, that the commiſſion for holding the court of oyer and terminer did not expire for ſome months, and the court would again ſit before the period expired. The priſoner was, however, admitted to bail, upon his own recognizance in £. 500, and two ſureties in £. 250 each; but as his friends doubted the diſpoſition of the court to determine according to the terms of the treaty, they thought it more prudent to ſuffer the forfeiture of the recognizances, than to put his life again into jeopardy.

In that ſtate alſo, actions of treſpaſs have been inſtituted, for taking and driving off cattle during the war, converting indictable offences into civil ſuits, with a view of eluding the ſtipulations of the treaty; but with what ſucceſs, has not been aſcertained.

Upon this laſt head of arrangement, it is only neceſſary farther to obſerve, that the proſecutions, in the caſes ſpecified, are all direct and poſitive violations of the 6th article of the treaty of peace.

From the foregoing detail, it is evident, that the recommendations of congreſs to the reſpective ſtate legiſlatures, have, in ſome of the ſtates, been totally diſregarded, and in none have produced that complete and extenſive effect, which Great Britain, from the ſtipulations of the treaty, was perfectly juſtifiable in expecting and requiring; that ſince the peace, many of the ſtates have paſſed laws in direct contravention of the definitive treaty, and eſſentially injurious to the eſtates, rights and properties of Britiſh ſubjects, in whoſe favor preciſe diſtinctions were clearly defined and expreſſed in the treaty—That although ſome of the ſtates may have repealed their exceptionable laws, partially or generally, yet, in a majority of the ſtates, they ſtill exiſt in full force and validity—and that in ſome of the ſtate courts, actions have been commenced and proſecuted with ſucceſs againſt individuals, for the part they had taken in the war; which actions were, in their origin, poſitive contraventions of the 6th article of the treaty, and in their conſequences, materially detrimental to the rights and property of many ſubjects of the crown of Great Britain. In conſequence of the violation of the treaty in theſe particulars, great numbers of his majeſty's ſubjects have been reduced to a ſtate of penury and diſtreſs, and the nation of Great Britain has been involved in the payment to them, of no leſs a ſum than four millions ſterling, as a partial compenſation for the loſſes they had ſuſtained.

It is further manifeſt, that the ſtipulation in the 4th article of the treaty, which provides for the recovery of the debts due to the ſubjects of the two countries reſpectively, has been not only evaded in many of the ſtates, but that municipal regulations have been eſtabliſhed in them, in avowed contravention of it—And that, in many inſtances, the means and proſpect of obtaining redreſs, are nearly as remote as ever; ſince in one ſtate, in which a ſum far exceeding one million ſterling, is ſtill due to Britiſh creditors, the ſupreme federal

court has thought proper to ſuſpend, for many months, the final judgment on an action of debt brought by a Britiſh creditor; and ſince, in the ſame ſtate, the county courts (which alone can take cognizance of debts of a limited amount) have uniformly rejected all ſuits inſtituted for the recovery of ſums due to the ſubjects of the crown of Great Britain.

The delay which has ariſen in the adminiſtration of juſtice, has, with equal propriety, been ſtated as equivalent to an infraction of the treaty: for, by the effect of that delay, many deſcriptions of his majeſty's ſubjects have been expoſed, not only to material inconvenience, but, in various caſes, to the ruin and abſolute loſs of their property.

The conduct of Great Britain, in all theſe reſpects, has been widely different from that which has been obſerved by the United States. In the former country, the legiſlature has never harboured the intention of enacting regulations which might invalidate a national compact, or affect the ſacred tenor of engagements contracted between individuals. And in the courts of law, the citizens of the United States have experienced, without exception, the ſame protection and impartial diſtribution of juſtice, as the ſubjects of the crown. Examples can be adduced of judgment having been given in favor of American creditors, in actions of debt brought even againſt loyaliſts, the whole of whoſe property had been ſeized by legiſlative acts of the ſtates in which it was ſituated, and appropriated, in the firſt inſtance, to the liquidation of the very deſcription of debts for which theſe ſuits were commenced againſt them in England.

Such is the nature of the ſpecific facts which the king, my maſter, has conſidered as infractions of the treaty on the part of the United States, and, in conſequence of which, his majeſty has deemed it expedient to ſuſpend the full execution, on his part, of the 7th article of that treaty. On this head alſo, it is neceſſary to premiſe the following evident diſtinction: That the king has contented himſelf with a mere ſuſpenſion of that article of the treaty; whereas the United States have not only withheld from ſubjects of the crown, that redreſs to which they were entitled, under the terms of the treaty, but alſo, many of the ſtates have, ſubſequent to the peace, paſſed new legiſlative regulations, in violation of the treaty, and impoſing additional hardſhips on individuals, whom the national faith of the United States was pledged, under preciſe and ſolemn ſtipulations, to inſure and protect from future injury.

On the grounds, therefore, of the irreparable injury which many claſſes of his ſubjects have ſuſtained, and of the heavy expenſe to which the Britiſh nation has been ſubjected by the non-performance of their engagements, on the part of the United States, the meaſure that the king has adopted (of delaying his compliance with the 7th article of the treaty) is perfectly juſtifiable. Nevertheleſs, his majeſty's ſincere deſire to remove every occaſion of miſunderſtanding, has induced him to direct me to expreſs his readineſs to enter into a negociation with reſpect to thoſe articles of the treaty, which have not been executed by the two countries reſpectively, and to conſent to ſuch arrangements

upon the ſubject, as, after due examination, may now be found to be of mutual convenience, and not inconſiſtent with the juſt claims and rights of his ſubjects.

I have the honor to be,
With ſincere reſpect and eſteem,
Sir,
Your moſt obedient,
And moſt humble ſervant,
GEO. HAMMOND.

APPENDIX A.

No. 1. Act of New Hampſhire, to confiſcate eſtates of ſundry perſons therein named—paſſed November 28, 1778.

2. Act of Maſſachuſetts-Bay, to prevent the return of certain perſons therein named, and others who had left that ſtate or either of the United States, and joined the enemies thereof—paſſed in 1778.

3. Act of Maſſachuſetts-Bay, to confiſcate the eſtates of certain notorious conſpirators againſt the government and liberties of the inhabitants of the late province, now ſtate, of Maſſachuſetts-Bay—paſſed in 1779.

4. Act of Rhode Iſland, to confiſcate and ſequeſter eſtates, and baniſh perſons of certain deſcriptions—paſſed October 1775—February, March, May, June, July, Auguſt, October, 1776.—February and October, 1778.—February, May, Auguſt, September, October, 1779.—July, September, October, 1780.—January, May, 1781.—June, October, November, 1782.—February, May, June, October, 1783.

5. Act of Connecticut, directing certain confiſcated eſtates to be ſold—Connecticut laws, fol. 56.

6. Act of New York for the forfeiture and ſales of the eſtates of perſons who have adhered to the enemies of the ſtate—paſſed 22 October, 1779.

7. Act of New York for the immediate ſale of part of the confiſcated eſtates—paſſed March 10, 1780.

8. Act of New York approving the act of congreſs relative to the finances of the United States and making proviſion for redeeming that ſtate's proportion of bills of credit to be emitted—paſſed 15 June, 1780.

9. Act of New York to procure a ſum in ſpecie for the purpoſe of redeeming a portion of the bills emitted, &c.—paſſed 7 October, 1780.

10. Act of New Jerſey to puniſh traitors and diſaffected perſons—paſſed 4 October, 1776.

11. Act of New Jerſey for taking charge of and leaſing the real eſtates, and for forfeiting perſonal eſtates of certain fugitives and offenders—paſſed April 18, 1778.

12. Act of New Jerſey for forfeiting to, and veſting in, the ſtate, the real eſtates of certain fugitives and offenders—paſſed 11 December, 1778.

13. Act of New Jersey, supplemental to the act (No. 10) to punish traitors and disaffected persons—passed October 3, 1782.

14. Act of Pennsylvania for the attainder of divers traitors, and for vesting their estates in the commonwealth, if they render not themselves by a certain day—6 March, 1778.

15. Act of Delaware, declaring estates of certain persons forfeited, and themselves incapable of being elected to any office—passed 5 February, 1778.

16. Act of Maryland for calling out of circulation the quota of the state, of the bills of credit issued by congress—October, 1780.

By the 11th section of this act persons indebted to creditors, who had not become subjects and residents of the state, or had an agent constantly residing within the state, were, under certain regulations, authorized to pay these debts into the treasury in certain species of depreciated paper money, and the treasurer's receipt was declared good evidence, in law and equity, of the payment of such debt.

17. Act of Maryland to seize, confiscate and appropriate all British property within the state—passed October, 1780.

18. Act of Maryland to appoint commissioners to preserve confiscated British property—passed October, 1780.

19. Act of Maryland to procure a loan, and for the sale of escheat lands and the confiscated British property therein mentioned—passed October, 1780.

20. Act of Virginia for sequestering British property, enabling those indebted to British subjects to pay off such debts, &c.—passed October, 1777.

21. Act of Virginia, concerning escheats and forfeitures from British subjects—May, 1779.

22. Act of Virginia, to amend the act concerning escheats, &c. —passed May, 1779.

23. Act of Virginia to amend the act concerning escheats and forfeitures—passed October, 1779.

24. Act of Virginia to adjust and regulate pay and account of officers of Virginia line—passed November, 1781.

25. Act of Virginia for providing more effectual funds for redemption of certificates—passed May, 1782.

26. Act of North Carolina, for confiscating the property of all such persons as are inimical to the United States, &c.—passed November, 1777.

27. Act of North Carolina to carry into effect the last mentioned act—passed January, 1779.

28. Act of South Carolina, for disposing of certain estates and banishing certain persons therein mentioned—passed 26 February, 1782.

29. Act of South Carolina to amend the last mentioned act—passed 16 March, 1783.

30. Act of Georgia for inflicting penalties on, and confiscating the estates of, such persons as are therein declared guilty of treason, and for other purposes therein mentioned—passed May 4, 1782.

31. Act of South Carolina to veſt 180 acres of land, late property of James Holmes, in certain perſons in truſt for the benefit of a public ſchool—paſſed 15 Auguſt, 1783.

32. Act of Virginia for removal of ſeat of government—paſſed May ſeſſion, 1779, ſee No. 21.

33. Act of New Jerſey to appropriate a certain forfeited eſtate—paſſed 23 December, 1783.

34. Act of Maryland for the benefit of the children of major Andrew Leitch—15 June, 1782.

APPENDIX B.

No. 1. Act of Maſſachuſetts in addition to an act made and paſſed the preſent year (1784) entitled, An Act for repealing two laws of this ſtate—paſſed 10 November, 1784, ſee Appendix C, No. 2.

2. Act of North Carolina to ſecure and quiet in their poſſeſſions all ſuch as have or may purchaſe lands, goods, &c. ſold or hereafter to be ſold by the commiſſioners of forfeited eſtates—paſſed December 29, 1785.

3. Act of North Carolina directing the ſale of confiſcated property—paſſed October ſeſſion, 1784.

4. Act of Georgia to authoriſe the auditor to liquidate the demands of ſuch perſons as have claims againſt the confiſcated eſtates—paſſed 22 February, 1785.

5. Ordinance of South Carolina for amending and explaining the confiſcation act—paſſed 26 March, 1784.

6. Act of South Carolina to amend the confiſcation act, and for other purpoſes therein mentioned—paſſed March 22, 1786.

7. Act of Georgia releaſing certain perſons from their bargains, &c.—paſſed 29 July, 1783.

8. Act of Georgia to compel the ſettlement of public accounts, for inflicting penalties, and for veſting the auditor with certain powers—paſſed 10 February, 1787.

9. Act of Maryland to veſt certain powers in the governor and council, ſec. 3d—paſſed November ſeſſion, 1785.

10. Act of Maryland to empower governor and council to compound with the diſcoverers of Britiſh property and for other purpoſes—paſſed November ſeſſion, 1788.

APPENDIX C.

See Acts of Confiſcation, Baniſhment, &c. referred to in appendix A. No. 1 to 30 inclusive.

No. 1. Act of North Carolina of pardon and oblivion—paſſed April ſeſſion, 1788.

2. Act of Maſſachuſetts Bay, for repealing two laws of the ſtate, and for aſſerting the right of that free and ſovereign commonwealth to expel ſuch aliens as may be dangerous to the peace and good order of government—paſſed 24 March, 1784.

3. Act of Georgia for aſcertaining the rights of aliens, and pointing out a mode for the admiſſion of citizens—paſſed 7 February, 1785.

4. Act of New York to preſerve the freedom and independence of the ſtate, and for other purpoſes therein mentioned—paſſed 12 May, 1784.

5. Act of Virginia prohibiting the migration of certain perſons to that commonwealth, and for other purpoſes therein mentioned—paſſed October ſeſſion, 1783.

6. Act of Virginia to explain, amend and reduce into one act the ſeveral acts for the admiſſion of emigrants to the rights of citizenſhip and prohibiting the migration of certain perſons to that commonwealth—paſſed October ſeſſion, 1786.

7. Act of North Carolina to deſcribe and aſcertain ſuch perſons as owed allegiance to the ſtate, and to impoſe certain diſqualifications on certain perſons therein named—paſſed October ſeſſion. 1784.

8. Act of North Carolina to amend the laſt mentioned act—paſſed November ſeſſion, 1785.

9. Act of South Carolina reſtoring to certain perſons their eſtates, and for permitting the ſaid perſons to return, and for other purpoſes—26 March, 1784.

10. See appendix A, No. 28. By act of 26th February, 1782, penalties of confiſcation and baniſhment were inflicted on certain perſons deſcribed in liſts 1, 2, 3, 4, 5, and, though it appears by the foregoing act, that the perſons named in liſts No. 1, 2, 3, were reſtored to their eſtates under certain aſſeſſments and limitations, and permitted to return and reſide in the ſtate under certain diſqualifications, the penalties of the act of 26th February, 1782, ſtill prevail againſt thoſe perſons mentioned in the liſts No. 4 and 5, who are liable to ſuffer death, if they return to the ſtate after being ſent out of it.

11. Act of Rhode Iſland to ſend out of the ſtate, N. Spink and Jn°. Underwood, who had formerly joined the enemy and were returned into Rhode Iſland—paſſed May 27, 1783.

12. Act of Rhode Iſland to ſend William Young, theretofore baniſhed, out of the ſtate, and forbidden to return at his peril—paſſed 8 June, 1783.

13. Act of Rhode Iſland, allowing William Brenton, late an abſentee, to viſit his family for one week, then ſent away not to return—paſſed June 12, 1783.

14. Act of Rhode Iſland to baniſh S. Knowles (whoſe eſtate had been forfeited) on pain of death if he return—paſſed October, 1783.

15. Act of Pennſylvania, to attaint Harry Gordon, unleſs he ſurrender himſelf by a given day (24 July, 1783) and the ſeizure of

his eſtates by the agents of forfeited eſtates confirmed—paſſed 31 January, 1783.

This act, paſſed after the proviſional articles were ſigned, and the time limited for the ſurrender of Mr. Gordon's perſon was many months after the account reached the United States; part of Mr. Gordon's real eſtate was ſold in conſequence of an order of the executive council of Pennſylvania—made in the year 1790.

16. Act of New York for granting a more effectual relief in caſes of certain treſpaſſes—paſſed 17 March, 1783.

17. Act of Georgia to point out the mode for the recovery of property unlawfully acquired under the Britiſh uſurpation, and withheld from the rightful owners, and for other purpoſes—paſſed 17 February, 1783.

18. Act of New York, for ſuſpending the proſecutions therein mentioned—paſſed 21 March, 1783.

19. Act of New York, to amend an act, entitled, "An Act for relief againſt abſconding and abſent debtors," and to extend the remedy of the act, entitled, "An Act for granting a more effectual relief in caſes of certain treſpaſſes, and for other purpoſes therein mentioned—paſſed May 4, 1784.

APPENDIX D.

No. 1. Act of North Carolina, for eſtabliſhing courts of law and for regulating the proceedings therein. Sect. 101—paſſed November ſeſſion, 1777.

2. Act of Virginia for directing the mode of adjuſting and ſettling the payment of certain debts and contracts—paſſed November ſeſſion, 1781.

3. Act of Virginia to repeal ſo much of a former act as ſuſpends the iſſuing executions upon certain judgments, until December, 1783—paſſed May ſeſſion, 1782.

4. Act of Virginia, to amend an act, entitled, "An Act to repeal ſo much of a former act as ſuſpends the iſſuing executions on certain judgments, until December, 1783,"—paſſed October ſeſſion, 1782.

5. Act of Virginia, to revive and continue the ſeveral acts of aſſembly, for ſuſpending the iſſuing executions on certain judgments, until December, 1783—paſſed October ſeſſion, 1783.

6. Act of Maryland to prevent ſuits on certain debts for a limited time—paſſed April ſeſſion, 1782.

7. Ordinance of South Carolina reſpecting ſuits for the recovery of debts—paſſed 26 March, 1784.

8. Act of Connecticut, relative to debts due to perſons who have been and remained within the enemy's power or lines during the late war—paſſed May ſeſſion, 1784.

9. Act of Maſſachuſetts Bay, directing the juſtices of the courts of judicature to ſuſpend rendering judgment for any intereſt that might have accrued between the 19th April, 1775, and the 20th January, 1783. on debts due to Britiſh ſubjects—paſſed 9 November, 1784.

10. Old act of Maryland.

11. { Caſe of Thomas Harriſons's repreſentatives, in the chancery court of Maryland.
Caſe of Bayard and Singleton, decided in North Carolina.

12. Act of Rhode Iſland to enable any debtor in gaol on execution at the ſuit of any creditor, to tender real, or certain ſpecific articles of perſonal, eſtate—paſſed March, 1786.

13. Act of New Jerſey, to direct modes of proceeding on writs of fieri facias, and for transferring lands and chattels for payment of debts—23 March, 1786.

14. Act of South Carolina, for regulating ſales under executions, and for other purpoſes therein mentioned—paſſed 12 October, 1785.

15. Act of Maryland for the ſettlement of public accounts, and to appoint perſons to collect the debts due to perſons convicted of treaſon and for a ſpecific performance of certain contracts made by Britiſh ſubjects previous to the revolution—paſſed November ſeſſion, 1786.

16. Acts of Rhode Iſland of May and June, 1775, of January, July and September, 1776, of February, 1777, and of May, 1786.

17. Act of New Jerſey, for making bills emitted by the act for raiſing a revenue of £.3159. 5. per annum for 25 years, legal tender—paſſed 1 June, 1786.

18. Act of New Jerſey for ſtriking and making current £.100,000 in bills of credit, to be let out on loan—paſſed 26 May, 1786.

19. Act of Georgia for emitting the ſum of £.50,000 in bills of credit, and for eſtabliſhing a fund for the redemption and for other purpoſes therein mentioned—paſſed 14 Auguſt, 1786.

20. Ordinance of South Carolina, reſpecting ſuits for the recovery of debts—paſſed 26 March, 1784.

21. Act of South Carolina, to regulate the recovery and payment of debts, and prohibiting the importation of negroes, &c.—paſſed 28 March, 1787.

22. Act of South Carolina, to regulate the payment and recovery of debts, and to prohibit the importation of negroes for the time therein limited—paſſed 4 November, 1788.

APPENDIX E.

No. 1. Caſe of William Neale's executors againſt Comfort Sands—decided in the ſupreme court of New York.

2. Caſe of Oſborne againſt Mifflin's executors—decided in the ſupreme court of Pennſylvania.

3. Caſe of Hoare againſt Allen—decided in the ſame court.

4. Case of Stewardson, administrator of Mildred against Dorsey—decided in the general court of Maryland.

5. Act of Virginia, for the protection and encouragement of the commerce of nations acknowledging the independence of the United States of America—October session, 1779.

6. Act of Virginia, to repeal part of an act for the protection and encouragement of the commerce of nations acknowledging the independence of the United States of America—passed December 31, 1787.

7. Act of Virginia, to repeal so much of all and every act or acts of assembly as prohibits the recovery of British debts—passed 12 December, 1787.

8. Case of Rutgers against Waddington—decided in the mayor's court of New York.

9. Case of John Smith Hatfield, at a court of oyer and terminer, held at Bergen, in the state of New Jersey—in August, 1789.

Mr. Jefferson, Secretary of State of the United States, to Mr. Hammond, Minister Plenipotentiary of Great Britain.

PHILADELPHIA, March 30th, 1792.

SIR,

A CONSTANT course of business has, as yet, put it out of my power to prepare an answer to your letter of the 5th inst. in the mean time I have been taking measures to procure copies of the several acts therein complained of, that I might save you the trouble of producing proofs of them. My endeavours have failed in the instances below cited, of which, therefore, I am constrained to ask you to furnish the documents. I have prefixed to them your own marks of reference, that you may the more easily find them. I beg you to be assured that I would not have given you the trouble to produce any proofs which I could have obtained myself; and I hope it will be considered as an evidence of this, that the list subjoined is only of 13 out of 94 numbers which your appendix specifies. Of all the rest I either have, or expect copies, in consequence of the measures I have taken.

I have the honor to be, with the most perfect esteem and respect, Sir,
Your most obedient and most humble Servant,
TH. JEFFERSON.

A. 4. Act of Rhode Island to confiscate and sequester estates and banish persons of certain descriptions, passed October 1775. February, March, May, June, July, August, October, 1775. February, May, June, October, 1783.

C. 11. Act of Rhode Island to send out of the state N. Spink and John Underwood.

12. Ditto, to send Wm. Young theretofore banished out of the state, &c.

13. Ditto, allowing Wm. Brenton to visit his family, &c.

14. Ditto, to banish S. Knowles, &c.

D. 10. Old Act of Maryland.
16. Act of Rhode Island of May, 1786.
E. 1, 2, 3, 4, 8, 9. The cases of Neale's executors *v.* Comfort Sands.—Osborne *v.* Mifflin's executors.—Hoare *v.* Allen.—Stewardson *v.* Dorsey.—Rutgers *v.* Waddington.—John Smith Hatfield.

The records of these cannot be dispensed with.

Mr. Hammond, Minister Plenipotentiary of Great Britain, to Mr. Jefferson, Secretary of State of the United States.

PHILADELPHIA, April 6th, 1792.

SIR,

I HAVE been so much engaged for the last five or six days, that I have not had it in my power sooner to acknowledge the receipt of your letter of the 30th March—I have, however, now the honor of submitting to your consideration, some few remarks on the several points contained in my statement, of which you require an explanation.

With respect to the laws of Rhode Island, they are so blended with the journal of the general proceedings of the legislature of the state, that it was a matter of some difficulty to separate the legislative acts from the other transactions of the assembly—I therefore cannot but regret that in selecting these instances, I could make a reference only to the *dates* of the particular years in which they were passed—these last will, I trust, upon recurring to the collection of the laws of Rhode Island (which book is no longer in my possession) be found to be faithfully stated—By the expression, *the old Act of Maryland*, I meant to combine the statute of the 5th of George the IId. (declaring lands in the plantations to be personal estate for the payment of debts due to British merchants) with the act of assembly of that state of 1716, ch. XVI. sect. 2. (pointing out the mode of appraisement and delivery of the debtor's lands in common with his personal property)—This statute and colonial law have, I understand, been acted upon in the state courts of Maryland, since the establishment of its independence, but from the strict application of the principle of alienage, mentioned in the text to which this note refers, British creditors are incompetent to the holding of real estates, assigned under these valuation laws, in payment of their debts.

All the cases to which you have alluded (excepting that of Rutgers *v.* Waddington, which was printed at New York) have been collected from the manuscript notes of a friend, and I have no doubt of their being accurately reported—I wish it were in my power to furnish you with the records of them, but I beg leave to suggest to you, sir, with the utmost deference, whether those documents could not be obtained on application to the courts of the states, in which the actions were tried, or the reports be supplied by the gentlemen of the law, employed in the several suits.

Should this explanation not be satisfactory to you, sir, I will certainly endeavour to obtain some farther information upon the several

points to which you have referred, as after the very polite and obliging manner, in which you have been pleaſed to expreſs your deſire of ſaving me trouble, I certainly feel it an act of reciprocal attention due from me to facilitate, by all the means in my power, your inveſtigation of any part of the ſtatement which I delivered to you.

I have the honor to be, with perfect reſpect and eſteem, &c.

GEO. HAMMOND.

Mr. Jefferſon, Secretary of State of the United States, to Mr. Hammond, Miniſter Plenipotentiary of Great Britain.

SIR,

YOUR favor of March 5th, has been longer unanſwered than conſiſted with my wiſhes to forward, as much as poſſible, explanations of the ſeveral matters it contained. But theſe matters were very various, and the evidence of them not eaſily to be obtained, even where it could be obtained at all. It has been a work of time and trouble, to collect from the different ſtates, all the acts themſelves, of which you had cited the titles, and to inveſtigate the judiciary deciſions which were claſſed with thoſe acts, as infractions of the treaty of peace. To theſe cauſes of delay may be added, the daily duties of my office, neceſſarily multiplied during the ſeſſions of the legiſlature.

Section 1. I can aſſure you with truth, that we meet you on this occaſion, with the ſincereſt diſpoſitions to remove from between the two countries, thoſe obſtacles to a cordial friendſhip, which have ariſen from an inexecution of ſome articles of the treaty of peace. The deſire entertained by this country, to be on the beſt terms with yours, has been conſtant, and has manifeſted itſelf through its different forms of adminiſtration, by repeated overtures to enter into ſuch explanations and arrangements, as ſhould be right and neceſſary, to bring about a complete execution of the treaty. The ſame diſpoſitions lead us to wiſh, that the occaſion now preſented, ſhould not be defeated by uſeleſs recapitulations of what had taken place anterior to that inſtrument. It was with concern, therefore, I obſerved that you had thought it neceſſary to go back to the very commencement of the war, and in ſeveral parts of your letter, to enumerate and comment on all the acts of our different legiſlatures, paſſed during the whole courſe of it, in order to deduce, from thence, imputations which your juſtice would have ſuppreſſed, had the whole truth been preſented to your view, inſtead of particular traits, detached from the ground on which they ſtood. However eaſy it would be to juſtify our country, by bringing into view, the whole ground, on both ſides, to ſhow that legiſla-

Proceedings prior to treaty.

Proceedings prior to treaty.

tive warfare began with the British parliament, that when they levelled at persons or property, it was against entire towns or countries, without discrimination of cause or conduct, while we touched individuals only; naming them man by man, after due consideration of each case, and careful attention not to confound the innocent with the guilty; however advantageously we might compare the distant and tranquil situation of their legislature, with the scenes in the midst of which ours were obliged to legislate, and might then ask, whether the difference of circumstance and situation would not have justified a contrary difference of conduct, and whether the wonder ought to be, that our legislatures had done so much, or so little? We will wave all this, because it would lead to recollections, as unprofitable as unconciliating. The titles of some of your acts, and a single clause of one of them only, shall be thrown among the documents at the end of this letter (No. 1, 2.) and with this, we will drop, for ever, the curtain on this tragedy!

No. 1, 2.

Sect. 2. We now come together to consider that instrument which was to heal our wounds, and begin a new chapter in our history. The state in which that found things, is to be considered as rightful: so says the law of nations.* "L'Etat où les choses se trouvent au moment du traité doit passer pour legitime; et si l'on veut y apporter du changement il faut que le traité en fasse une mention expresse. Par consequent toutes les choses dont le traité ne dit rien, doivent demeurer dans l'etat où elles se trouvent lors de sa conclusion." Vattel, l. 4. s. 21. "De quibus nihil dictum, ea manent quo sunt loco." Wolf, 1222. No alterations then are to be claimed on either side, but those which the treaty has provided. The moment too, to which it refers, as a rule of conduct for this country at large, was the moment of its notification to the country at large.† Vattel, l. 4. s. 24. "Le traité de paix oblige les *parties contractantes* du moment qu'il est conclu aussitôt

* "*The state in which things are found at the moment of the treaty, should be considered as lawful, and if it is meant to make any change in it, the treaty must expresly mention it. Consequently all things about which the treaty is silent, must remain in the state in which they are found at its conclusion.*" Vattel, l. 4 s. 21.

"*Those things of which nothing is said, remain in the state in which they are.*" Wolf, 1222.

† Vattel, l. 4. s. 24. "*The treaty of peace binds the* contracting parties *from the moment it is concluded, as soon as it has received its whole form, and they ought immediately*

qu'il a reçu toute ſa forme; et elles doivent procurer inceſſamment l'execution—mais ce traité n'oblige les *ſujets* que du moment qu'il leur eſt notifié"—and ſect. 25: "Le traité devient *par la publication*, une loi pour les ſujets, et ils ſont obligés de ſe conformer deſormais aux diſpoſitions dont on y eſt convenu."—And another author as pointedly ſays, "Pactio pacis *paciſcentes* ſtatim obligat quam primum *perfecta*; cum ex pacto veniat obligatio. Subditos vero et milites, quam primum iiſdem fuerit *publicata*; cum de eâ *ante publicationem ipſis certo conſtare non poſſit.*" Wolf, ſ. 1229. It was ſtipulated, indeed, by the IXth article, that "if before its arrival in America," any place or territory belonging to either party ſhould be conquered by the arms of the other, it ſhould be reſtored. This was the only caſe in which tranſactions intervening between the ſignature and publication were to be nullified. Proceedings prior to treaty.

Congreſs, on the 24th of March, 1783, received informal intelligence from the Marquis de la Fayette, that proviſional articles were concluded; and on the ſame day, they received a copy of the articles, in a letter of March 19th, from General Carleton and Admiral Digby. They immediately gave orders for recalling all armed veſſels, and communicated the orders to thoſe officers, who anſwered, on the 26th and 27th, that they were not authorized to concur in the recal of armed veſſels, on their part. On the 11th of April, congreſs receive an official copy of theſe articles from Dr. Franklin, with notice that a preliminary treaty was now ſigned between France, Spain, and England. The event having now taken place on which the proviſional articles were to come into effect, on the uſual footing of preliminaries, congreſs immediately proclaim them, and on the 19th of April, a ceſſation of hoſtilities is publiſhed by the commander in chief. Theſe particulars place all acts preceding the 11th of April, out of the preſent diſcuſſion, and confine it to the treaty itſelf, and the circumſtances attending its execution. I have, therefore, taken the liberty of extracting from your liſt of American acts, all thoſe preceding that epoch, and of

Document No. 3.

Document No. 4, 5.

Journal congreſs.

to have it executed.—But this treaty does not bind the ſubjects, *but from the moment it is notified to them.*" *And*, ſect. 25. "*The treaty becomes, by its* publication, *a law for the ſubjects, and they are obliged,* thenceforward, *to conform themſelves to the ſtipulations therein agreed on.*"

"*The paction of the peace binds the* contractors *immediately as it is* perfect, *ſince the obligation is derived from the pact; but the* ſubjects *and ſoldiers as ſoon as it is* publiſhed *to them; ſince* they cannot have certain evidence of it before its publication." Wolf, ſ. 1229.

No. 6. throwing them together in the paper, No. 6, as things out of queſtion. The ſubſequent acts ſhall be diſtributed, according to their ſeveral ſubjects of I. Exile and Confiſcation. II. Debts, and III. Intereſt on thoſe debts. Beginning I. with thoſe of exile and confiſcation, which will be conſidered together, becauſe blended together in moſt of the acts, and blended alſo in the ſame article of the treaty.

Exile and Confiſcation.

Rightful acts of war. Sect. 3. It cannot be denied that the ſtate of war ſtrictly permits a nation to ſeize the property of its enemies found within its own limits, or taken in war, and in whatever form it exiſts, whether in action or poſſeſſion. This is ſo perſpicuouſly laid down by one of the moſt reſpectable writers on ſubjects of this kind, that I ſhall uſe his words. "* Cum ea ſit belli conditio, ut hoſtes ſint omni jure ſpoliati, rationis eſt, quaſcunque res hoſtium, apud hoſtes inventas dominum mutare, et fiſco cedere. Solet praeterea in ſingulis fere belli indictionibus conſtitui, ut bona hoſtium, tam *apud nos reperta*, quam capta bello publicentur. Si merum jus belli ſequamur, etiam *immobilia* poſſent vendi, et eorum pretium in fiſcum redigi, ut in mobilibus obtinet. Sed in omni fere Europa ſola ſit annotatio, ut eorum fructus, durante bello, percipiat fiſcus, finito autem bello, ipſa immobilia ex pactis reſtituuntur priſtinis dominis." Bynkerſh. Queſt. Jur. Pub. l. I. c. 7. Every nation, indeed, would wiſh to purſue the latter practice, if under circumſtances leaving them their uſual reſources. But the circumſtances of our war were, without example, excluded from all commerce, even with neutral nations; without arms, money, or the means of getting them abroad, we were obliged to avail ourſelves of ſuch reſources as we found at home. Great Britain too, did not conſider it as an ordinary war, but a rebellion; ſhe did not conduct it according to the rules of war, eſtabliſhed by the law of nations, but according to her acts of parliament, made

* "*Since it is a condition of war, that enemies may be deprived of all their rights, it is reaſonable that every thing of an enemy's found among his enemies, ſhould change its owner, and go to the treaſury. It is moreover uſually directed, in all declarations of war, that the goods of enemies, as well* thoſe found among us, *as thoſe taken in war, ſhall be confiſcated, if we follow the mere right of war, even* immoveable *property may be ſold, and its price carried into the treaſury, as is the cuſtom with moveable property. But in almoſt all Europe, it is only notified that their profits, during the war, ſhall be received by the treaſury, and the war being ended, the immoveable property itſelf is reſtored, by agreement, to the former owner.*" Bynk. Queſt. Jur. pub. l. I. c. 7.

from time to time, to ſuit circumſtances. She would not admit our title even to the *ſtrict rights* of ordinary war. She cannot then claim from us its *liberalities*; yet the confiſcations of property, were by no means univerſal, and that of debts ſtill leſs ſo. What effect was to be produced on them by the treaty, will be ſeen by the words of the Vth article, which are as follows.

Exile and Confiſcation.

Rightful acts of war.

Sect. 4. Article Vth. It is agreed, that the congreſs ſhall earneſtly recommend it to the legiſlatures of the reſpective ſtates, to provide for the reſtitution of all eſtates, rights and properties, which have been confiſcated, belonging to real Britiſh ſubjects, and alſo, of the eſtates, rights, and properties of perſons reſident in diſtricts in the poſſeſſion of his majeſty's arms, and who have not borne arms againſt the ſaid United States; and that perſons of any other deſcription ſhall have free liberty to go to any part or parts of any of the thirteen United States, and therein to remain twelve months, unmoleſted in their endeavours to obtain the reſtitution of ſuch of their eſtates, rights, and properties as may have been confiſcated: and that congreſs ſhall alſo earneſtly recommend to the ſeveral ſtates, a reconſideration and reviſion of all acts or laws regarding the premiſes, ſo as to render the ſaid laws or acts perfectly conſiſtent, not only with juſtice and equity, but with that ſpirit of conciliation, which, on the return of the bleſſings of peace, ſhould univerſally prevail: and that congreſs ſhall alſo earneſtly recommend to the ſeveral ſtates, that the eſtates, rights, and properties of ſuch laſt mentioned perſons ſhall be reſtored to them, they refunding to any perſons who may be now in poſſeſſion, the bona fide price (where any has been given) which ſuch perſons may have paid on purchaſing any of the ſaid lands, rights, or properties, ſince the confiſcation. And it is agreed, that all perſons who have any intereſt in confiſcated lands, either by debts, marriage ſettlements, or otherwiſe, ſhall meet with no lawful impediment in the proſecution of their juſt rights.

"Article VIth. That there ſhall be no future confiſcations made."

Sect. 5. Obſerve that in every other article, the parties agree expreſsly, that ſuch and ſuch things *ſhall be done*. In this they only agree to *recommend* that they ſhall be done. You are pleaſed to ſay (page 15) "It cannot be preſumed, that the commiſſioners who negociated the treaty of peace, would engage, in behalf of congreſs, to make *recommendations* to the legiſlatures of the reſpective ſtates, which they did not expect to be effectual, or enter into direct ſtipulations, which they had not the power to enforce." On the contrary, we may fairly preſume, that if

recommendatory by expreſs words.

Exile and Confiscation

recommendatory by expreſs words.

they had the power to *enforce*, they would not merely have *recommended*. When in every other article, they agree expreſsly *to do*, why in this, do they change the ſtyle ſuddenly and agree only to *recommend?*—becauſe the things here propoſed to be done, were retroſpective in their nature, would tear up the laws of the ſeveral ſtates, and the contracts and tranſactions private and public, which had taken place under them; and retroſpective laws were forbidden by the conſtitutions of ſeveral of the ſtates. Between perſons whoſe native language is that of this treaty, it is unneceſſary to explain the difference between *enacting* a thing to be done, and *recommending* it to be done; the words themſelves being as well underſtood, as any by which they could be explained. But it may not be unneceſſary to obſerve that *recommendations* to the people, inſtead of *laws*, had been introduced among us, and were rendered familiar in the interval between diſcontinuing the old, and eſtabliſhing the new governments. The conventions and committees who then aſſembled, to guide the conduct of the people, having no authority to oblige them by law, took up the practice of ſimply recommending meaſures to them. Theſe recommendations they either complied with, or not, at their pleaſure. If they refuſed, there was complaint, but no compulſion. So, after organizing the governments, if, at any time, it became expedient, that a thing ſhould be done, which congreſs, or any other of the organized bodies were not authorized to ordain, they ſimply recommended and left to the people, or their legiſlatures, to comply, or not, as they pleaſed. It was impoſſible that the negociators on either ſide ſhould have been ignorant of the difference between agreeing *to do* a thing, and agreeing only to *recommend* it to be done. The import of the terms is ſo different, that no deception or ſurprize could be ſuppoſed, even if there were no evidence that the difference was attended to, explained and underſtood.

Senſe of negociators.

Sect. 6. But the evidence on this occaſion removes all queſtion. It is well known, that the Britiſh court had it extremely at heart, to procure a reſtitution of the eſtates of the refugees who had gone over to their ſide: that they propoſed it in the firſt conferences, and inſiſted on it to the laſt; that our commiſſioners, on the other hand, refuſed it from firſt to laſt, urging, 1ſt, That it was unreaſonable to reſtore the confiſcated property of the refugees, unleſs they would reimburſe the deſtruction of the property of our citizens, committed on their part; and 2dly, That it was beyond the powers of the commiſſioners to ſtipulate or of congreſs to enforce. On this point, the treaty hung long. It was the ſubject of a ſpecial miſſion, of a confidential agent of the Britiſh negociator from Paris to London. It

was ſtill inſiſted on, on his return, and ſtill proteſted againſt, by our commiſſioners: and when they were urged to agree only, that congreſs ſhould *recommend* to the ſtate legiſlatures to reſtore the eſtates, &c. of the refugees, they were expreſsly told that the legiſlatures would not regard the recommendation. In proof of this, I ſubjoin extracts from the letters and journals of Mr. Adams and Dr. Franklin, two of our commiſſioners, the originals of which are among the records of the department of ſtate, and ſhall be open to you for a verification of the copies. Theſe prove, beyond all queſtion, that the difference between an expreſs agreement to do a thing and to recommend it to be done, was well underſtood by both parties, and that the Britiſh negociators were put on their guard by thoſe on our part, not only, that the legiſlatures would be free to refuſe, but that they probably would refuſe. And it is evident, from all circumſtances, that Mr. Oſwald accepted the *recommendation* merely to have ſomething to oppoſe to the clamours of the refugees, to keep alive a hope in them, that they might yet get their property from the ſtate legiſlatures; and that, if they ſhould fail in this, they would have ground to demand indemnification from their own government; and he might think it a circumſtance of preſent relief, at leaſt, that the queſtion of indemnification by them ſhould be kept out of ſight, till time and events ſhould open it upon the nation inſenſibly.

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Senſe of negociators.

No. 7, 8, 9, 10, 11, 12.

Sect. 7. The ſame was perfectly underſtood by the Britiſh miniſtry, and by the members of both houſes of parliament, as well thoſe who advocated as thoſe who oppoſed the treaty; the latter of whom being out of the ſecrets of the negociation, muſt have formed their judgments on the mere import of the terms. That all parties concurred in this expoſition, will appear by the following extracts from the Parliamentary Regiſter; a work, which, without pretending to give what is ſpoken, with verbal accuracy, may yet be relied on, we preſume, for the general reaſoning and opinion of the ſpeakers.

Senſe of miniſters.

House of Commons.

The preliminary articles under conſideration: 1783, February 17th. Mr. Thomas Pitt.—"That the intereſts of the ſincere loyaliſts were as dear to him as to any man; but that he could never think it would have been promoted by carrying on that unfortunate war which parliament had in fact ſuſpended before the beginning of the treaty; that it was impoſſible, after the part congreſs was pleaſed to take in it, to conceive that their *recommendation* would not have its proper influence on the different legiſlatures; that he did not himſelf ſee what more could have been

Senſe of parliament.

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done on their behalf, except by renewing the war for their ſakes, and increaſing our and their calamities." 9. Debrett's Parl. Regiſter, 233.

Senſe of parliament.

Mr. Wilberforce.—"When he conſidered the caſe of the loyaliſts, he confeſſed he felt himſelf there conquered; there he ſaw his country humiliated; he ſaw her at the feet of America! ſtill he was induced to believe that congreſs would religiouſly comply with the article, and that the loyaliſts would obtain redreſs from America. Should they not, this country was bound to afford it them. They muſt be compenſated: miniſters, he was perſuaded, meant to keep the faith of the nation with them, and he verily believed, had obtained the beſt terms they poſſibly could for them." Ib. 236.

Mr. Secretary Townſhend.—"He was ready to admit, that many of the loyaliſts had the ſtrongeſt claims upon this country; and he truſted ſhould the *recommendation* of congreſs to the American ſtates prove unſucceſsful, which he flattered himſelf would not be the caſe, this country would feel itſelf bound in honor to make them full compenſation for their loſſes." Ib. 262.

HOUSE OF LORDS, *February* 17th, 1783.

Lord Shelburne.—"A part muſt be wounded, that the whole of the empire may not periſh. If better terms could be had, think you, my Lords, that I would not have embraced them? You all know my creed. You all know my ſteadineſs. If it were poſſible to put aſide the bitter cup, the adverſities of this country preſented to me, you know I would have done it: but you called for peace. I had but the alternative, either to accept the terms, ſaid congreſs, of our recommendation to the ſtates, in favor of the coloniſts, or continue the war. It is in our power to do *no more than recommend.* Is there any man who hears me, who will clap his hand on his heart, and ſtep forward and ſay, I ought to have broken off the treaty? If there be, I am ſure he neither knows the ſtate of the country, nor yet has he paid any attention to the wiſhes of it: but ſay the worſt—and that after all, this eſtimable ſet of men are not received and cheriſhed in the boſom of their own country. Is England ſo loſt to gratitude, and all the feelings of humanity, as not to afford them an aſylum? —Who can be ſo baſe as to think ſhe will refuſe it to them? Surely it cannot be that noble minded man who would plunge his country again knee-deep in blood, and ſaddle it with an expenſe of twenty millions, for the purpoſe of reſtoring them. Without one drop of blood ſpilt, and without one fifth of the expenſe of one year's campaign, happineſs and eaſe can be given to the loyaliſts in

as ample a manner as theſe bleſſings were ever in their enjoyment: therefore let the outcry ceaſe on this head." Ib. 70, 71. Exile and Confiſcation.

Lord Hawke.—" In America," ſaid he, " congreſs had engaged to recommend their [the loyaliſts] cauſe to the legiſlatures of the country: What other term could they adopt? He had ſearched the journals of congreſs on this ſubject: What other term did they, or do they ever adopt in their requiſitions to the different provinces? it is an undertaking on the part of congreſs: that body, like the king here, is the executive power in America. Can the crown undertake for the two houſes of parliament? It can only recommend. He flattered himſelf that recommendation would be attended with ſucceſs; but, ſaid he, ſtate the caſe, that it will not, the liberality of Great Britain is ſtill open to them. Miniſters had pledged themſelves to indemnify them; not only in the addreſs now moved for, but even in the laſt addreſs, and in the ſpeech from the throne." Senſe of parliament.

Lord Walſingham.—" We had only the *recommendation* of congreſs to truſt to, and how often had their recommendations been fruitleſs? There were many caſes in point in which provincial aſſemblies had peremptorily refuſed the recommendations of congreſs. It was but the other day the ſtates refuſed money on the recommendations of congreſs. Rhode Iſland unanimouſly refuſed when the congreſs deſired to be authorized to lay a duty of five per cent. becauſe the funds had failed. Many other circumſtances might be produced of the failure of the recommendations of congreſs, and, therefore, we ought not, in negociating for the loyaliſts to have truſted to the recommendations of congreſs. Nothing but the *repeal* of the acts exiſting againſt them, ought to have ſufficed, as nothing elſe could give effect to the treaty; *repeal* was not mentioned. They had only ſtipulated to reviſe and reconſider them." 11. Debrett's Parl. Reg. 44.

Lord Sackville.—" The king's miniſters had weakly imagined that the *recommendation* of congreſs, was a ſufficient ſecurity for theſe unhappy men. For his own part. ſo far from believing that this would be ſufficient, or any thing like ſufficient, for their protection, he was of a direct contrary opinion: and if they entertained any notions of this ſort, he would put an end to their idle hopes at once, by reading from a paper in his pocket, a reſolution, which the aſſembly of Virginia had come to, ſo late as on the 17th of December laſt.—The reſolution was as follows, " That all demands or requeſts of the Britiſh court, for the reſtitution of property, confiſcated by this ſtate, being neither ſupported by law, equity, or policy, are wholly

Exile and Confiſcation.

Senſe of parliament.

inadmiſſible: and that our delegates in congreſs be inſtructed to move congreſs, that they may direct their deputies who ſhall repreſent theſe ſtates in the general congreſs, for adjuſting a peace or truce, neither to agree to any ſuch reſtitution, or ſubmit that the laws made by any independent ſtate in this union, be ſubjected to the adjudication of any power or powers on earth." Ib. page 62, 63.

Some of the ſpeakers ſeem to have had not very accurate ideas of our government. All of them, however, have perfectly underſtood, that a *recommendation* was a matter, not of obligation or coercion, but of perſuaſion and influence, merely. They appear to have entertained greater or leſs degrees of hope or doubt, as to its effect on the legiſlatures, and though willing to ſee the reſult of this chance, yet if it failed, they were prepared to take the work of indemnification on themſelves.

Compliance by congreſs.

Sect. 8. The agreement then, being only that congreſs ſhould *recommend* to the ſtate legiſlatures, a reſtitution of eſtates, and liberty to remain a twelve month, for the purpoſe of ſoliciting the reſtitution, and to recommend a reviſion of all acts regarding the premiſes, congreſs did immediately on the receipt of the definitive articles, to wit, on the 14th of January, 1784, come to the following reſolution, viz. "Reſolved, unanimouſly, nine ſtates being preſent, That it be and it is hereby earneſtly recommended to the legiſlatures of the reſpective ſtates, to provide for the reſtitution of all eſtates, rights, and properties, which have been confiſcated, belonging to real Britiſh ſubjects; and alſo, of the eſtates, rights, and properties of perſons reſident in diſtricts, which were in poſſeſſion of his Britannic majeſty's arms, at any time between the 30th day of November, 1782, and the 14th day of January, 1784, and who have not borne arms againſt the ſaid United States; and that perſons of any other deſcription ſhall have free liberty to go to any part or parts of any of the thirteen United States, and therein to remain twelve months unmoleſted in their endeavours to obtain the reſtitution of ſuch of their eſtates, rights, and properties, as may have been confiſcated: and it is alſo hereby earneſtly recommended to the ſeveral ſtates, to reconſider and reviſe all their acts or laws regarding the premiſes, ſo as to render the ſaid laws or acts perfectly conſiſtent, not only with juſtice and equity, but with that ſpirit of conciliation, which, on the return of the bleſſings of peace, ſhould univerſally prevail: and it is hereby alſo earneſtly recommended to the ſeveral ſtates, that the eſtates, rights, and properties of ſuch laſt mentioned perſons ſhould be reſtored to them, they refunding to any perſons, who may be now in poſſeſſion, the bona fide price (where any has been given)

which ſuch perſons may have paid, on purchaſing any of the ſaid lands, rights, or properties, ſince the confiſcation. Exile and Confiſcation.

"Ordered, That a copy of the proclamation of this date, together with the recommendation be tranſmitted to the ſeveral ſtates, by the ſecretary." Compliance by congreſs.

Sect. 9. The Britiſh negociators had been told by ours, that all the ſtates would refuſe to comply with this recommendation: One only, however, refuſed altogether. The others complied in a greater or leſs degree, according to the circumſtances and diſpoſitions in which the events of the war had left them; but had all of them refuſed, it would have been no violation of the 5th article, but an exerciſe of that freedom of will, which was reſerved to them, and ſo underſtood by all parties.

The following are the acts of your catalogue which belong to this head, with ſuch ſhort obſervations as are neceſſary to explain them. Beginning at that end of the union where the war having raged moſt, we ſhall meet with the moſt repugnance to favor. Acts of ſtates.

Sect. 10. *Georgia.* July 29. An act releaſing certain perſons from their bargains. A law had been paſſed during the war, to wit; in 1782, [A. 30.] confiſcating the eſtates of perſons therein named, and directing them to be ſold:—they were ſold; but ſome miſunderſtanding happened to prevail among the purchaſers, as to the mode of payment. This act of 1783, therefore permits ſuch perſons to relinquiſh their bargains, and authorizes a new ſale —the lands remaining confiſcated under the law made previous to the peace. [B. 7.] 1785.

February 22. An act to authorize the auditor to liquidate the demands of ſuch perſons as have claims againſt the confiſcated eſtates. In the ſame law of confiſcations made during the war, it had been provided that the eſtates confiſcated ſhould be ſubject to pay the debts of their former owner. This law of 1785, gave authority to the auditor to ſettle with, and pay the creditors, and to ſell the remaining part of the eſtate confiſcated as before. [B. 4.] 1783.

February 10. An act to compel the ſettlement of public accounts, for inflicting penalties, and veſting the auditor with certain powers. This law alſo is founded on the ſame confiſcation law of 1782, requiring the auditor to preſs the ſettlement with the creditors, &c. [B. 8.] 1787.

February 7. An act for aſcertaining the rights of aliens, and pointing out the mode for the admiſſion of citizens. It firſt deſcribes what perſons ſhall be free to become citizens, and then declares none ſhall be capable of that character who had been named in any confiſcation law, or baniſhed, or had borne arms againſt them. This act does not prohibit either the refugees, or real Britiſh ſubjects [C. 3.] 1785.

Exile and Confiscation.

Acts of ſtates.

from coming into the ſtate to purſue their lawful affairs. It only excludes the former from their right of citizenſhip, and it is to be obſerved, that this recommendatory article does not ſay a word about giving them a right to become citizens. If the conduct of Georgia ſhould appear to have been peculiarly uncomplying, it muſt be remembered that that ſtate had peculiarly ſuffered; that the Britiſh army had entirely over run it; had held poſſeſſion of it for ſome years; and that all the inhabitants had been obliged either to abandon their eſtates and fly their country, or to remain in it under a military government.

[A. 31.] 1783. Sect. 11. *South Carolina.* Auguſt 15th. An act to veſt 180 acres of land, late the property of James Holmes, in certain perſons, in truſt for the benefit of a public ſchool. Theſe lands had been confiſcated and ſold during the war. The preſent law preſcribes certain proceedings as to the purchaſers, and provides for paying the debts of the former proprietors.

[B. 6.] 1786. March 22. An act to amend the confiſcation act, and for other purpoſes therein mentioned. This relates only to eſtates which had been confiſcated before the peace. It makes ſome proviſion towards a final ſettlement, and relieves a number of perſons from the amercements which had been impoſed on them during the war, for the part they had taken.

[C. 9.] 1784. March 26. An act reſtoring to certain perſons their eſtates, and permitting the ſaid perſons to return, and for other purpoſes. This act recites, that certain eſtates had been confiſcated, and the owners, 124 in number, baniſhed by former laws; that congreſs had earneſtly recommended in the terms of the treaty: it therefore diſtributes them into three liſts or claſſes, reſtoring to all of them the lands themſelves where they remained unſold, and the price, where ſold, requiring from thoſe in liſts, No. 1 & 3, to pay 12 per cent. on the value of what was reſtored, and No. 2, nothing; and it permits all of them to return, only diſqualifying thoſe of No. 1 & 3; who had borne military commiſſions againſt them, from holding any office for ſeven years.

Document No. 44. Governor Moultrie's letter of June 21, 1786, informs us, that moſt of the confiſcations had been reſtored; that the value of thoſe not reſtored, was far leſs than that of the property of their citizens carried off by the Britiſh, and that fifteen, inſtead of twelve, months had been allowed to the perſons for whom permiſſion was recommended to come and ſolicit reſtitution.

[B. 3.] 1784. Sect. 12. *North Carolina.* October. An act directing the ſale of confiſcated property.

December 29. An act to ſecure and quiet in their poſſeſſions, the purchaſers of lands, goods, &c. ſold, or to be ſold, by the commiſſioners of forfeited eſtates. Theſe two acts relate expreſsly to property "heretofore confiſcated," and ſecure purchaſers under thoſe former confiſcations. Exile and Confiſcation. Acts of ſtates. [B. 2.] 1785.

The caſe of Bayard v. Singleton, adjudged in a court of judicature in North Carolina. Bayard was a purchaſer of part of an eſtate confiſcated during the war, and the court adjudged his title valid; and it is difficult to conceive on what principle that adjudication can be complained of as an infraction of the treaty. No. 54. [D. 11.] 1790.

November 19. An act was paſſed to reſtore a confiſcated eſtate to the former proprietor, Edward Bridgen. 1785.

October. An act to deſcribe and aſcertain ſuch perſons as owed allegiance to the ſtate, and impoſe certain diſqualifications on certain perſons therein named. [C. 7.] 1784.

November. An act to amend the preceding act. [C. 8.] 1785.

April. An act of pardon and oblivion. The two firſt of theſe acts exerciſed the right of the ſtate, to deſcribe who ſhould be its citizens, and who ſhould be diſqualified from holding offices. The laſt, entitled, An act of pardon and oblivion, I have not been able to ſee; but ſo far as it pardons, it is a compliance with the recommendation of congreſs under the treaty, and ſo far as it excepts perſons out of the pardon, it is a refuſal to comply with the recommendation, which it had a right to do. It does not appear, that there has been any obſtruction to the return of thoſe perſons who had claims to proſecute. [C. 1.] 1788.

Sect. 13. *Virginia.* The catalogue under examination, preſents no act of this ſtate ſubſequent to the treaty of peace, on the ſubject of confiſcations. By one of October 18, 1784, they declared there ſhould be no future confiſcations. But they did not chooſe to comply with the recommendation of congreſs, as to the reſtoration of property which had been already confiſcated: with reſpect to perſons, the firſt aſſembly which met after the peace, paſſed Document No. 13.

October. The act prohibiting the migration of certain perſons to this commonwealth, and for other purpoſes therein mentioned, which was afterwards amended by [C. 5.] 1783.

October. An act to explain and amend the preceding. Theſe acts after declaring who ſhall not have a right to migrate to, or become citizens of, the ſtate, have each an expreſs proviſo, that *nothing contained in them ſhall be ſo conſtrued as to contravene the treaty of peace with Great Britain;* and a great number of the refugees having come into the ſtate, under the protection of the firſt law, and it being underſtood, that a party was forming in the ſtate to ill- [C. 6.] 1786.

Exile and Confiscation.

treat them, the governor, July 26, 1784, publiſhed the proclamation, No. 14,* enjoining all magiſtrates and other civil officers, to protect them, and ſecure to them, the rights derived from the treaty, and acts of aſſembly aforeſaid, and to bring to puniſhment, all who ſhould offend herein; in conſequence of which, thoſe perſons remained quietly in the ſtate; and many of them have remained to this day.

Acts of ſtates.

*Document No. 14.

[B. 9.] 1785. Sect. 14. *Maryland.* November. An act to veſt certain powers in the governor and council. Sec. 3.

[B. 10.] 1788. November. An act to empower the governor and council to compound with the diſcoverers of Britiſh property, and for other purpoſes. Theſe acts relate purely to property which had been confiſcated during the war, and the ſtate not chooſing to reſtore it, as recommended by congreſs, paſſed them for bringing to a concluſion the ſettlement of all tranſactions relative to the confiſcated property.

I do not find any law of this ſtate, which could prohibit the free return of their refugees, or the reception of the ſubjects of Great Britain, or of any other country. And I find that they paſſed in

[1786.] November. An act to repeal that part of the act for the ſecurity of their government, which diſqualified non-jurors from holding offices, and voting at elections.

[D. 11.] 1790. The caſe of Harriſon's repreſentatives, in the court of chancery of Maryland, is in the liſt of infractions. Theſe repreſentatives being Britiſh ſubjects, and the laws of this country, like thoſe of England, not permitting aliens to hold lands, the queſtion was, whether Britiſh ſubjects were aliens. They decided that they were, conſequently that they could not take lands, and conſequently alſo, that the lands in this caſe eſcheated to the ſtate. Whereupon the legiſlature immediately interpoſed, and paſſed a ſpecial act, allowing the benefits of the ſucceſſion to the repreſentatives. But had they not relieved them, the caſe would not have come under the treaty, for there is no ſtipulation in that doing away the laws of alienage, and enabling the members of each nation to inherit or hold lands in the other.

See Document No. 49.

Sect. 15. *Delaware.* This ſtate in the year 1778, paſſed an act of confiſcation againſt forty-ſix citizens, by name, who had joined in arms againſt them, unleſs they ſhould come in by a given day, and ſtand their trial. The eſtates of thoſe who did not, were ſold, and the whole buſineſs ſoon cloſed. They never paſſed any other act on the ſubject, either before or after the peace. There was no reſtitution, becauſe there was nothing to reſtore, their debts having more than exhauſted the proceeds of the ſales of their property, as appears by Mr. Read's letter, and that

Document No. 15.

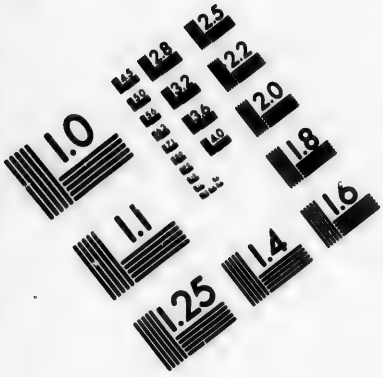
all perſons were permitted to return, and ſuch as choſe it, have remained there in quiet, to this day. Bills and Confiſcation.

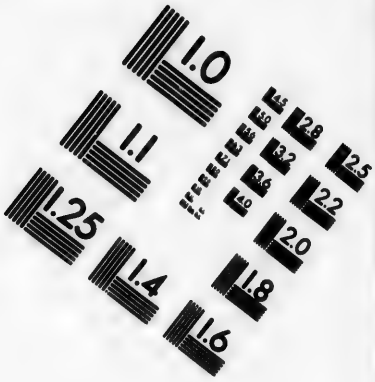
Sect. 16. *Pennſylvania.* The catalogue furniſhes no tranſaction of this ſtate, ſubſequent to the arrival of the treaty of peace, on the ſubjects of confiſcation, except Auguſt. An order of the executive council, to ſell part of Harry Gordon's real eſtate, under the act of January 31, 1783. This perſon had been ſummoned by proclamation, by the name of Henry Gordon, to appear before the 1ſt day of November, 1781, and failing, his eſtate was ſeized by the commiſſioners of forfeitures, and moſt of it ſold. The act of 1783, January 31, cured the miſnomer, and directed what remained of his eſtate to be ſold. The confiſcation being complete, it was for them to ſay whether they would reſtore it, in compliance with the recommendation of congreſs. They did not, and the executive completed the ſale, as they were bound to do. All perſons were permitted to return to this ſtate, and you ſee many of them living here to this day in quiet and eſteem. Acts of States. [C. 15.] 1790.

Sect. 17. *New-Jerſey.* The only act alleged againſt this ſtate, as to the recommendatory article, is,

December 23. An act to appropriate a certain forfeited eſtate. This was the eſtate of John Zabriſki, which had been forfeited during the war, and the act gives it to Major-general Baron Steuben, in reward for his ſervices. The confiſcation being complete, the legiſlature were free to do this. Governor Livingſton's letter is an additional teſtimony of the moderation of this ſtate, after the proclamation of peace, and from that we have a right to conclude, that no perſons were prevented from returning and remaining indefinitely. [A. 33.] 1783. Document No. 41.

Sect. 18. *New-York.* This ſtate had been among the firſt invaded; the greateſt part of it had been poſſeſſed by the enemy through the war; it was the laſt evacuated; its inhabitants had in great numbers been driven off their farms; their property waſted, and themſelves living in exile and penury, and reduced from affluence to want, it is not to be wondered at, if their ſenſations were among the moſt lively: accordingly, they, in the very firſt moment, gave a flat refuſal to the recommendation, as to the reſtoration of property: See document No. 17, containing their reaſons. They paſſed, however, May 12, The act to preſerve the freedom and independence of this ſtate, and for other purpoſes therein mentioned, in which, after diſqualifying refugees from offices, they permit them to come, and remain as long as may be abſolutely neceſſary, to defend their eſtates. Document No. 17. [C. 4.] 1784.





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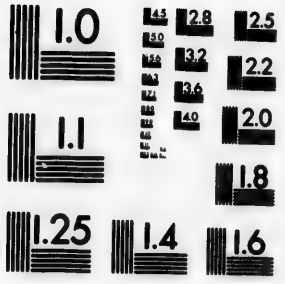

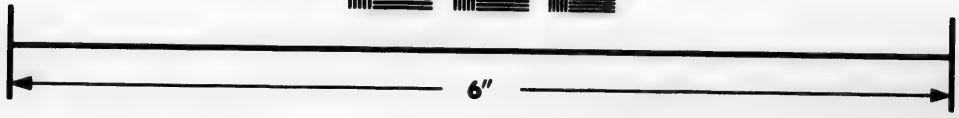

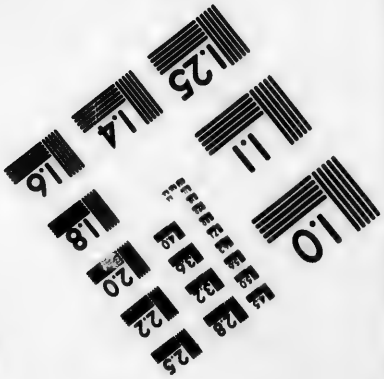

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Exile and Confiscation. Acts of States. (A. 5.) 1790. Document No. 18.

Sect. 19. *Connecticut.* A single act only on the same subject, is alleged against this state, after the treaty of peace: This was an act directing certain confiscated estates to be sold. The title shows, they were old confiscations, not new ones, and governor Huntington's letter informs us, that all confiscations and prosecutions were stopped on the peace; that some restoration of property took place, and all persons were free to return.

Sect. 20. *Rhode Island.* The titles of four acts of this state, are cited in your appendix, to wit:

[C. 11.] 1783. May 27. An act to send out of the state, N. Spink, and J. Underwood, who had formerly joined the enemy, and were returned to Rhode Island.

[C. 12.] 1783. June 8. An act to send William Young, theretofore banished, out of the state, and forbidden to return at his peril.

[C. 13.] 1783. June 12. An act allowing William Brenton, late an absentee to visit his family for one week, then sent away, not to return.

[C. 14.] 1783. October. An act to banish S. Knowles (whose estate had been forfeited) on pain of death, if he return. Mr. Channing, the attorney of the United States for that district, says, in his letter, "he had sent me all the acts of that legislature, that affect either the debts, or the persons of British subjects, or American refugees." The acts above cited are not among them. In the answer of April 6th, which you were pleased to give to mine of March 30th, desiring copies of these, among other papers, you say the book is no longer in your possession. These circumstances will, I hope, excuse my not answering or admitting these acts, and justify my proceeding to observe, that nothing is produced against this state, on this subject after the treaty; and the district attorney's letter before cited, informs us, that their courts considered the treaty as paramount to the laws of the state, and decided accordingly, both as to persons and property, and that the estates of all British subjects seized by the state, had been restored, and the rents and profits accounted for. Governor Collins's letter, No. 20, is a further evidence of the compliance of this state.

Document No. 19.

No. 20.

[C. 2.] 1784. Sect. 21. *Massachusetts.* March 24. This state passed an act for repealing two laws of this state, and for asserting the right of this free and sovereign commonwealth to expel such aliens as may be dangerous to the peace and good order of government, the effect of which was to reject the recommendation of congress, as to the return of persons, but to restore to them such of their lands as were not confiscated, unless they were pledged for debt, and by

Novem. 10. An act in addition to an act for repealing two laws of this ſtate, they allowed them to redeem their lands pledged for debt, by paying the debt. Exile and Confiſcation. (B. 1.) 1784.

Sect. 22. *New Hampſhire.* Againſt New Hampſhire nothing is alleged; that ſtate having not been invaded at all, was not induced to exerciſe any acts of rigor againſt the ſubjects or adherents of their enemies.

The acts then, which have been complained of, as violations of the Vth article, were ſuch as the ſtates were free to paſs, notwithſtanding the recommendation, ſuch as it was well underſtood they would be free to paſs without any imputation of infraction, and may therefore be put entirely out of queſtion.

Sect. 23. And we may further obſerve, with reſpect to the ſame acts, that they have been conſidered as infractions not only of the Vth article, which recommended the reſtoration of the confiſcations which *had taken place during the war;* but alſo of that part of the VIth article which forbade *future* confiſcations, but not one of them touched an eſtate which had not been before confiſcated; for you will obſerve, * that an act of the legiſlature confiſcating lands, ſtands in place of *an office found* in ordinary caſes; and that, *on the paſſage of the act*, as *on the finding of the office*, the ſtate ſtands, ipſo facto, poſſeſſed of the lands, without a formal entry. The confiſcation then is complete by the paſſage of the act. Both the title and poſſeſſion being diveſted out of the former proprietor, and veſted in the ſtate, no ſubſequent proceedings relative to the lands, are acts of confiſcation, but are mere exerciſes of ownerſhip, whether by levying profits, conveying for a time, by leaſe, or in perpetuo, by an abſolute deed. I believe, therefore, it may be ſaid with truth, that there was not a ſingle confiſcation made in any one of the United States, after notification of the treaty; and conſequently, it will not be neceſſary to notice again this part of the 6th article. Future confiſcations. * 3 Blackſtone, 260.

Sect. 24. Before quitting the recommendatory article, two paſſages in the letter are to be noted, which applying to all the ſtates in general, could not have been properly anſwered under any one of them in particular. In page 20, is the following paſſage, "The expreſs proviſion in the treaty, for the reſtitution of the eſtates and properties of perſons of both theſe deſcriptions [Britiſh ſubjects and Americans who had ſtaid within the Britiſh lines, but had not borne arms] certainly comprehended a virtual acquieſcence in their right to reſide where their property was ſituated, and to be reſtored to the privileges of citizenſhip." Here ſeems to be a double error, firſt, in ſuppoſing an expreſs proviſi- Citizenſhip of Refugees.

Exile and Confiscation.

sion, whereas the words of the article, and the collateral teſtimony adduced, have ſhown that the proviſion was neither *expreſs*, nor meant to be ſo. And, ſecondly, in inferring from a reſtitution of the eſtate, a virtual acquieſcence in the right of the party to reſide where the eſtate is. Nothing is more frequent than for a ſovereign to baniſh the perſon, and leave him poſſeſſed of his eſtate. The inference in the preſent caſe too, is contradicted, as to the *refugees*, by the recommendation to permit their reſidence twelve months; and as to Britiſh ſubjects, by the ſilence of the article, and the improbability that the Britiſh plenipotentiary meant to ſtipulate a right for Britiſh ſubjects to emigrate and become members of another community.

Indemnification by Great Britain.

Sect. 25. Again, in page 27, it is ſaid, "The nation of Great Britain has been involved in the payment to them of no leſs a ſum than four millions ſterling, as a partial compenſation for the loſſes they had ſuſtained." It has been before proved, that Mr. Oſwald underſtood perfectly, that no indemnification was claimed from us; that on the contrary, we had a counter claim of indemnification to a much larger amount: It has been ſuppoſed, and not without grounds, that the glimmering of hope provided by the recommendatory article, was to quiet, for the preſent, the clamours of the ſufferers, and to keep their weight out of the ſcale of oppoſition to the peace, truſting to time and events, for an oblivion of theſe claims, or a gradual ripening of the public mind to meet and ſatisfy them, at a moment of leſs embarraſſment: the latter is the turn which the thing took. The claimants continued their importunities, and the government determined, at length, to indemnify them for their loſſes; and open-handedly as they went to work, it coſt them leſs than to have ſettled with us, the juſt account of mutual indemnification, urged by our commiſſioners. It may be well doubted, whether there were not ſingle ſtates of our union, to which the four millions you have paid would have been no indemnification for the loſſes of property ſuſtained, contrary even to the laws of war: and what ſum would have indemnified the whole thirteen, and conſequently, to what ſum our whole loſſes of this deſcription have amounted, would be difficult to ſay. However, though in no wiſe intereſted in the ſums you thought proper to give to the refugees, we could not be inattentive to the meaſure in which they were dealt out. Thoſe who were on the ſpot, and who knew intimately the ſtate of affairs with the individuals of this deſcription, who knew that their debts often exceeded their poſſeſſions, inſomuch that the moſt faithful adminiſtration made them pay but a few ſhillings in the pound,

heard with wonder, of the ſums given, and could not but conclude, that thoſe largeſſes were meant for ſomething more than loſs of property: that ſervices, and other circumſtances muſt have had great influence. The ſum paid is therefore no imputation on us. We have borne our own loſſes. We have even leſſened yours, by numerous reſtitutions, where circumſtances admitted them: and we have much the worſt of the bargain, by the alternative you choſe to accept, of indemnifying your own ſufferers, rather than ours. Indemnification by Great Britain.

Sect. 26. II. The article of debts is next in order: but to place on their true grounds, our proceedings relative to them, it will be neceſſary to take a view of the Britiſh proceedings, which are the ſubject of complaint in my letter of December 15th. II. Debts. Britiſh proceedings.

In the 7th article, it was ſtipulated, that his Britannic majeſty ſhould withdraw his armies, garriſons and fleets, without carrying away any negroes, or other property of the American inhabitants. This ſtipulation was known to the Britiſh commanding officers, before the 19th of March, 1783, as *proviſionally* agreed, and on the 5th of April, they received official notice from their court of the concluſion and ratification of the preliminary articles between France, Spain, and Great Britain, which gave activity to ours, as appears, by the letter of Sir Guy Carleton to General Waſhington, dated April 6, 1783. [Document No. 21.] From this time, then, ſurely no negroes could be carried away without a violation of the treaty. Yet we find, that ſo early as the 6th May, a *large* number of them had already been embarked for Nova Scotia, of which, as contrary to an expreſs ſtipulation in the treaty, General Waſhington declared to him his ſenſe and his ſurpriſe. In the letter of Sir Guy Carleton of May 12 (annexed to mine to you of the 15th of December) he admits the fact; palliates it by ſaying, he had no right to deprive the negroes of that liberty he found them *poſſeſſed* of, that it was unfriendly to ſuppoſe that the king's miniſter could ſtipulate to be guilty of a notorious breach of the public faith towards the negroes, and that *if it was his intention, it muſt be adjuſted by compenſation*, reſtoration being utterly impracticable, where inſeparable from a breach of public faith. But ſurely, ſir, an officer of the king is not to queſtion the validity of the king's engagements, nor violate his ſolemn treaties, on his own ſcruples about the public faith. Under this pretext, however, General Carleton went on in daily infractions, embarking, from time to time, between his notice of the treaty, the 5th of April, and the evacuation of New York, November 25—3000 negroes, of whom our commiſſioners had inſpection, Negroes. No.

Debts. British proceedings. Negroes.

and a very large number more, in public and private veſſels, of whom they were not permitted to have inſpection. Here, then, was a direct, unequivocal, and avowed violation of this part of the 7th article, in the firſt moments of its being known; an article, which had been of extreme ſolicitude on our part; on the fulfilment of which, depended the means of paying debts, in proportion to the number of labourers withdrawn; and, when in the very act of violation, we warn, and put the commanding officer on his guard, he ſays, directly, he will go through with the act, and leave it to his court to adjuſt it by compenſation.

Poſts.

Sect. 27. By the ſame article, his Britannic majeſty ſtipulates, that he will, *with all convenient ſpeed*, withdraw his garriſons from *every* poſt within the United States. * "When no preciſe terms," ſays a writer on the law of nations, [Vattel, L. 4. C. 26.] "has been marked for the accompliſhment of a treaty, and for the execution of each of its articles, good ſenſe determines that every point ſhould be executed *as ſoon as poſſible*: This is without doubt, what was underſtood." The term in the treaty, *with all convenient ſpeed*, amounts to the ſame thing, and clearly excludes all unneceſſary delay. The general pacification being ſigned on the 20th of January, ſome time would be requiſite for the orders for evacuation to come over to America, for the removal of ſtores, property and perſons, and finally, for the act of evacuation. The larger the poſt, the longer the time neceſſary to remove all its contents; the ſmaller, the ſooner done: Hence, though General Carleton received his orders to evacuate New York, in the month of April, the evacuation was not completed till late in November. It had been the prineipal place of arms and ſtores; the ſeat, as it were, of their general government, and the aſylum of thoſe who had fled to them. A great quantity of ſhipping was neceſſary, therefore, for the removal, and the General was obliged to call for a part from foreign countries. Theſe cauſes of delay were duly reſpected on our part. But the poſts of † Michillimackinac, Detroit, Niagara, Oſwego, Oſwegatchie, Point-au-fer, Dutchman's Point,

* *Lorſqu'on n'a point marqué de terme pour l'accompliſſement du traité, et pour l'execution de chacun des articles, le bon ſens dit que chaque point doit etre executé* auſſitôt qu'il eſt poſſible. *C'eſt ſans doute ainſi qu'on l'entendu.*

† Inſtead of this, Fort Erie was by error inſerted in my letter of December 15.

were not of this magnitude. The orders for evacuation, which reached General Carleton, in New-York, early in April, might have gone, in one month more, to the moſt remote of theſe poſts: Some of them might have been evacuated in a few days after, and the largeſt in a few weeks. Certainly they might all have been delivered, without any *inconvenient ſpeed* in the operations, by the end of May, from the known facility furniſhed by the lakes, and the water connecting them; or by croſſing immediately over into their own territory, and availing themſelves of the ſeaſon for making new eſtabliſhments there, if that was intended: Or whatever time might, in event, have been neceſſary for their evacuation, certainly the order for it ſhould have been given from England, and might have been given as early as that from New York. Was any order ever given? Would not an *unneceſſary delay* of the order, producing an equal delay in the evacuation, be an infraction of the treaty? Let us inveſtigate this matter. Debts. British proceedings. Poſts.

On the 3d of Auguſt, 1783, Major-general Baron Steuben, by orders from General Waſhington, having repaired to Canada for this purpoſe, wrote the letter, No. 22, to General Haldimand, governor of the province, and received from him the anſwer of Auguſt 13, No. 23. Wherein he ſays, "The orders I have received, direct a diſcontinuance of every hoſtile meaſure *only*," &c. And in his conference with Baron Steuben, he ſays expreſsly, "That he *had not received any orders* for making the leaſt arrangement for the evacuation of a ſingle poſt." The orders then, which might have been with him by the laſt of April, were unknown, if they exiſted, the middle of Auguſt—ſee Baron Steuben's letter, No. 24. No. 22. No. 23. No. 24.

Again, on the 19th of March, 1784, governor Clinton, of New York, within the limits of which ſtate ſome of theſe poſts are, writes to General Haldimand, the letter No. 25; and that General, anſwering him, May 10, from Quebec, ſays, "Not having had the honor *to receive orders* and inſtructions relative to withdrawing the garriſons," &c. fourteen months were now elapſed, and the *orders not yet received*, which might have been received in four. No. 25.

Again, on the 12th of July, Colonel Hull, by order from General Knox, the ſecretary at war, writes to General Haldimand, the letter No. 27; and General Haldimand gives the anſwer of the 13th, No. 28, wherein he ſays, "Though I am now informed, by his majeſty's miniſters, of the ratification, &c. I remain, &c. *not having received any orders* to evacuate the poſts which are without the limits," &c. And this is eighteen months after the ſignature of the general pacification! Now, is it No. 27. No. 28.

Debts. British proceedings. Posts.

not fair to conclude, if the order was not arrived on the 13th of August, 1783, if it was not arrived on the 10th of May, 1784, nor yet on the 13th of July, in the same year, that, in truth, the order had never been given? And if it had never been given, may we not conclude, that it never had been intended to be given? From what moment is it we are to date this infraction? From that, at which, with convenient speed, the order to evacuate the upper posts, might have been given. No legitimate reason can be assigned, why that order might not have been given as early, and at the same time as the order to evacuate New York; and *all delay, after this, was in contravention of the treaty.*

Sect. 28. Was this delay merely innocent and unimportant as to us, setting aside all considerations but of interest and safety? 1. It cut us off from the fur trade, which before the war, had been always of great importance as a branch of commerce, and as a source of remittance for the payment of our debts to Great Britain: for, to the injury of withholding our posts, they added the obstruction of all passage along the lakes and their communications. 2. It secluded us from connection with the north western Indians, from all opportunity of keeping up with them friendly and neighbourly intercourse, brought on us consequently their known dispositions, constant and expensive war, in which numbers of men, women and children have been, and still are, daily falling victims to the scalping knife, and to which there will be no period, but in our possession of the posts which command their country.

It may be safely said then that the treaty was violated in England, before it was known in America, and in America, as soon as it was known, and that too in points so essential as that without them, it would never have been concluded.

Sect. 29. And what was the effect of these infractions on the American mind? On the breach of any article of a treaty by the one part, the other has its election to declare it dissolved in all its articles, or to compensate itself by withholding execution of equivalent articles; or to wave notice of the breach altogether.

Debts. American proceedings.

Congress being informed that the British commanding officer was carrying away the negroes from New York, in avowed violation of the treaty, and against the repeated remonstrances of General Washington, they take up the subject on the 26th of May, 1783; they declare that it is contrary to the treaty; direct that the proper papers be sent to their ministers plenipotentiary in Europe, to remonstrate, and demand reparation, and that, in the mean time, General Washington continue his remonstrances to the Bri-

tish commanding officer, and insist on the discontinuance of the measure [See document No. 29.] Debts. American proceedings. No. 29.

Sect. 30. The state of Virginia, materially affected by this infraction, because the labourers thus carried away were chiefly from thence; while heavy debts were now to be paid to the very nation which was depriving them of the means, took up the subject in Dec. 1783, that is to say, seven months after that particular infraction, and four months after the first refusal to deliver up the posts, and instead of arresting the debts absolutely, in reprisal, for their negroes carried away, they passed [D. 5.] the act to revive and continue the several acts for suspending the issuing executions on certain judgments until Dec. 1783, that is to say, they revived till their next meeting, two acts passed during the war, which suspended all *voluntary* and *fraudulent* assignments of debt, and as to *others*, allowed real and personal estate to be tendered in discharge of executions: the effect of which was to relieve the body of the debtor from prison, by authorizing, him to deliver property in discharge of the debt. In June following, 13 months after the violation last mentioned, and after a second refusal by the British commanding officer to deliver up the posts, they came to the resolution No. 30, reciting specially No. 30. the infraction respecting their negroes, instructing their delegates in congress to press for reparation; and resolving, that the courts shall be opened to British suits, as soon as *reparation shall be made*, or otherwise, *as soon as congress shall judge it indispensably necessary*. And in 1787, they passed [C. 7.] the act to repeal so much of all and every act or acts of assembly, as prohibits the recovery of British debts; and at the same time [E. 6.] the act to repeal part of an act for the protection and encouragement of the commerce of nations acknowledging the independence of the United States of America. The former was not to be in force, till the evacuation of the posts, and reparation for the negroes carried away. The latter requires particular explanation. The small supplies of European goods, which reached us during the war, were frequently brought by captains of vessels and supercargoes, who, as soon as they had sold their goods, were to return to Europe with their vessels. To persons under such circumstances, it was necessary to give a summary remedy for the recovery of the proceeds of their sale. This had been done by the law for the protection and encouragement of the commerce of nations acknowledging the independence of the United States, which was meant but as a temporary thing, to continue whilst the same circumstances continued: On the return of peace, the supplies of foreign goods were made, as before the war, by merchants resident here. There was

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no longer reason to continue to them the summary remedy, which had been provided for the transient vender of goods. And indeed it would have been unequal to have given the resident merchant instantaneous judgment against a farmer or tradesman, while the farmer, or tradesman, could pursue those who owed him money, but in the ordinary way, and with the ordinary delays. The British creditor had no such unequal privilege, while we were under British government, and had no title to it, in justice, or by the treaty, after the war. When the legislature proceeded then to repeal the law, as to other nations, it would have been extraordinary to have continued it for Great Britain.

Sect. 31. South Carolina was the second state which moved, in consequence of the British infractions urged thereto by the desolated condition in which their armies had left that country, by the debts they owed, and the almost entire destruction of the means of paying them. They passed [D. 7. 20.] 1784, March 26, an ordinance respecting the recovery of debts, suspending the recovery of all actions, as well American as British, for 9 months, and then allowing them to recover payment at four equal and annual instalments only, requiring the debtor, in the mean time, to give good security for his debt, or otherwise refusing him the benefit of the act—by

[D. 21.] 1787, March 28. An act to regulate the recovery and payment of debts, and prohibiting the importation of negroes, they extended the instalments a year further in a very few cases. I have not been able to procure the two following acts [D. 14.] 1785, Oct. 12, An act for regulating sales under executions, and for other purposes therein mentioned, and

[D. 22.] 1788, Nov. 4. An act to regulate the payment and recovery of debts, and to prohibit the importation of negroes for the time therein limited; and I know nothing of their effect, or their existence, but from your letter, which says, their effect was to deliver property in execution, in relief of the body of the debtor, and still further to postpone the instalments. If, during the existence of material infractions on the part of Great Britain, it were necessary to apologize for these modifications of the proceedings of the debtor, grounds might be found in the peculiar distresses of that state, and the liberality with which they had complied with the recommendatory articles, notwithstanding their sufferings might have inspired other dispositions, having pardoned every body, received every body, restored all confiscated lands not sold, and the prices of those sold.

Sect. 32. Rhode Island next acted on the British infractions, and imposed modifications in favor of such debtors

as ſhould be purſued by their creditors, permitting them to relieve their bodies from execution, by the payment of paper money, or delivery of property. This was the effect of [D. 12.] 1786, Mar. An act to enable any debtor in jail, on execution at the ſuit of any creditor, to tender real, or certain ſpecific articles of perſonal, eſtate, and Debts. American proceedings

[D. 16.] 1786, May, An act making paper money a legal tender. But obſerve, that this was not till *three years* after the infractions by Great Britain, and repeated and conſtant refuſals of compliance on their part.

Sect. 33. New Jerſey did the ſame thing, by

[D. 13.] 1786, Mar. 23, An act to direct the modes of proceedings on writs of fieri facias, and for transferring lands and chattels for payment of debts, and

[D. 18.] 1786, May 26, An act for ſtriking and making current, £.100,000 in bills of credit, to be let out on loan, and

[D. 17.] 1786, June 1, An act for making bills, emitted by the act for raiſing a revenue of £. 31,259: 5 per annum, for 25 years, a legal tender, and

Sect. 34. Georgia, by [D. 19.] 1786, Aug. 14, An act for emitting the ſum of £. 50,000 in bills of credit, and for eſtabliſhing a fund for the redemption, and for other purpoſes therein mentioned, made paper money alſo a legal tender.

Theſe are the only ſtates which appear, by the acts cited in your letter, to have modified the recovery of debts. But I believe that North Carolina alſo emitted a ſum of paper money, and made it a tender in diſcharge of executions; though, not having ſeen the act, I cannot affirm it, with certainty. I have not mentioned, becauſe I do not view the act of Maryland [D. 15.] 1786, Nov. C. 29, for the ſettlement of public accounts, &c. as a modification of the recovery of debts. It obliged the Britiſh ſubject, before he could recover what was due to him within the ſtate, to give bond for the payment of what he owed therein. It is reaſonable that every one, who aſks juſtice, ſhould do juſtice; and it is uſual to conſider the property of a foreigner, in any country, as a fund appropriated to the payment of what he owes in that country, excluſively. It is a care which moſt nations take of their own citizens, not to let the property, which is to anſwer their demands, be withdrawn from its juriſdiction, and ſend them to ſeek it in foreign countries, and before foreign tribunals.

Sect. 35. With reſpect to the obſtacles thus oppoſed to the Britiſh creditor, beſides their general juſtification, as being produced by the previous infractions on the part of Great Britain, each of them admits of a ſpecial apology. They are, 1ſt. Delay of judgment. 2d. Liberating the body Inſtalments.

Debts. American proceedings Inſtalments.

from execution, on the delivery of property. 3d. Admitting executions to be diſcharged in paper money. As to the 1ſt, let it be conſidered, that from the nature of the commerce carried on between theſe ſtates and Great Britain, they were generally kept in debt; that a great part of the country, and moſt particularly Georgia, South Carolina, North Carolina, Virginia, New York, and Rhode Iſland, had been ravaged by an enemy, moveable property carried off, houſes burnt, lands abandoned, the proprietors forced off into exile and poverty. When the peace permitted them to return again to their lands, naked and deſolate as they were, was inſtant payment practicable? The contrary was ſo palpable, that the Britiſh creditors themſelves were ſenſible, that were they to ruſh to judgment immediately againſt their debtors, it would involve the debtor in total ruin, without relieving the creditor. It is a fact, for which we may appeal to the knowledge of one member, at leaſt, of the Britiſh adminiſtration of 1783, that the chairman of the North American merchants, conferring on behalf of thoſe merchants with the American miniſters then in London, was ſo ſenſible that time was neceſſary, as well to ſave the creditor as debtor, that he declared there would not be a moment's heſitation, on the part of the creditors, to allow payment by inſtalments annually for ſeven years, and that this arrangement was not made, was neither his fault nor ours.

To the neceſſities for ſome delay in the payment of debts, may be added, the Britiſh commercial regulations, leſſening our means of payment, by prohibiting us from carrying in our own bottoms, our own produce to their dominions in our neighbourhood, and excluding valuable branches of it from their home markets by prohibitory duties. The means of payment conſtitute one of the motives to purchaſe, at the moment of purchaſing. If theſe means are taken away, by the creditor himſelf, he ought not in conſcience to complain of a mere retardation of his debt, which is the effect of his own act, and the leaſt injurious of thoſe it is capable of producing. The inſtalment acts before enumerated, have been much leſs general, and for a ſhorter term than what the chairman of the American merchants thought reaſonable. Moſt of them required the debtor to give ſecurity, in the mean time, to his creditor, and provided complete indemnification of the delay, by the payment of intereſt, which was enjoined in every caſe.

Executions paid off in property.

Sect. 36. The ſecond ſpecies of obſtacle was the admitting the debtor to relieve his body from impriſonment by the delivery of lands or goods to his creditor. And is this idea original, and peculiar to us? or whence have we taken it? From England, from Europe, from natural right and

reaſon. For it may be ſafely affirmed, that neither natural right nor reaſon ſubjects the body of a man to reſtraint for debt. It is one of the abuſes introduced by commerce and credit, and which even the moſt commercial nations have been obliged to relax in certain caſes. The Roman laws, the principles of which are the neareſt to natural reaſon of thoſe of any municipal code hitherto known, allowed impriſonment of the body in criminal caſes only, or thoſe wherein the party had expreſsly ſubmitted himſelf to it.—The French laws allow it only in criminal or commercial caſes. The laws of England, in certain deſcriptions of caſes (as bankruptcy) releaſe the body. Many of the United States do the ſame, in all caſes, on a ceſſion of property by the debtor. The levari facias, an execution affecting only the *profits of lands*, is the only one allowed in England, in certain caſes. The elegit, another execution of that and this country, attaches firſt on a man's chattels, which are not to be ſold, but to be *delivered to the plaintiff*, on a *reaſonable appraiſement*, in part of ſatisfaction for his debt, and if not ſufficient, one half only of his lands are then to be delivered to the plaintiff, till the *profits* ſhall have ſatisfied him. The tender laws of theſe ſtates, were generally more favorable than the execution by elegit, becauſe they not only gave, as that does, the whole property in chattels, but alſo *the whole property* in the lands, and not merely the *profits* of them. It is, therefore, an execution framed on the model of the Engliſh elegit: or rather an amendment of that writ, taking away, indeed, the election of the party againſt the *body* of his debtor, but giving him, in exchange for it, much more complete remedy againſt his *lands*. Let it be obſerved too, that this proceeding was allowed againſt citizens, as well as foreigners; and it may be queſtioned, whether the treaty is not ſatisfied, while the ſame meaſure is dealt out to Britiſh ſubjects, as to foreigners of all other nations, and to natives themſelves. For it would ſeem, that all a friend can expect, is to be treated as a native citizen.

Debts. American proceedings

Executions paid off in property.

Sect. 37. The third obſtacle was allowing paper money to be paid for goods ſold under execution. The complaint on this head is only againſt Georgia, South Carolina, Jerſey and Rhode Iſland: and this obſtruction, like the two others, ſprung out of the peculiar nature of the war. For thoſe will form very falſe concluſions, who reaſon, as to this war, from the circumſtances which have attended other wars, and other nations. When any nation of Europe is attacked by another, it has neighbours, with whom its accuſtomary commerce goes on, without interruption; and its commerce with more diſtant nations is carried on by ſea, in foreign bottoms, at leaſt, under protection of

Executions paid off in paper money.

Debts. American proceedings.

Executions paid off in paper money.

the laws of neutrality. The produce of its ſoil can be exchanged for money, as uſual, and the ſtock of that medium of circulation is not at all diminiſhed by war; ſo that property ſells as readily and as well, for real money, at the cloſe, as at the commencement of the war. But how different was our caſe: on the north and ſouth, were our enemies: on the weſt, deſarts inhabited by ſavages in league with them; on the eaſt, an ocean of 1000 leagues, beyond which, indeed, were nations, who might have purchaſed the produce of our ſoil, and have given us real money in exchange, and thus kept up our ſtock of money, but who were deterred from coming to us, by threats of war on the part of our enemies, if they ſhould preſume to conſider us as a people, entitled to partake the benefit of that law of war, which allows commerce with neutral nations. What were the conſequences? The ſtock of hard money which we poſſeſſed in an ample degree, at the beginning of the war, ſoon flowed into Europe for ſupplies of arms, ammunition and other neceſſaries, which we were not in the habit of manufacturing for ourſelves. The produce of our ſoil, attempted to be carried in our own bottoms to Europe, fell, two-thirds of it, into the hands of our enemies, who were maſters of the ſea, the other third illy ſufficed to procure the neceſſary implements of war, ſo that no returns of money ſupplied the place of that which had gone off. We were reduced then to the reſource of a paper medium, and that completed the exile of the hard money: ſo that, in the latter ſtages of the war, we were, for years together, without ſeeing a ſingle coin of the precious metals in circulation. It was cloſed with a ſtipulation that we ſhould pay a large maſs of debt, in ſuch coin. If the whole ſoil of the United States had been offered for ſale for ready coin, it would not have raiſed as much as would have ſatisfied this ſtipulation. The thing then was impoſſible, and reaſon and authority declare, * "Si l'empechement eſt réel, il faut donner du tems; car nul n'eſt tenu à l'impoſſible." Vattel, l. 4, ſ. 51—We ſhould with confidence have referred the caſe to the arbiter propoſed by another juriſt, who lays it down, that a party, † "Non ultra obligari, quam in quantum facere poteſt; et an poſſit, permittendum alterius principis, qua boni viri arbitrio." Bynk 2. J. P. l. 2. c. 10. ſ. quid. That four of the ſtates

* "*If the obſtacle be real, time muſt be given, for no one is bound to an impoſſibility.*" *Vattel*, l. 4, ſ. 51.

† "*No one is bound beyond what he can do, and whether he can, may be left to the deciſion of the other prince, as an honeſt man.*" *Bynk.* 2. J. P. l. 2. c. 10.

should resort, under such circumstances, to very small emissions of paper money, is not wonderful: that all did not, proves their firmness under sufferance, and that they were disposed to bear whatever could be borne, rather than contravene, even by way of equivalent, stipulations, which had been authoritatively entered into by them. And even, in the four states, which emitted paper money, it was in such small sums, and so secured, as to suffer only a short-lived, and not great depreciation of value; nor did they continue its quality as a tender, after the first paroxysms of distress were over. Here, too, it is to be observed, that natives were to receive this species of payment, equally with British subjects.

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So that when it is considered, that the other party had broken the treaty, from the beginning, and that, too, in points which lessened our ability to pay their debts, it was a proof of the moderation of our nation, to make no other use of the opportunity of retaliation presented to them, than to indulge the debtors with that time for discharging their debts, which their distresses called for, and the interests and the reason of their creditors approved.

Sect. 38. It is to be observed, that during all this time, congress, who alone possessed the power of peace and war, of making treaties, and, consequently, of declaring their infractions, had abstained from every public declaration, and had confined itself to the resolution of May 26th, 1783, and to repeated efforts through their minister plenipotentiary at the court of London, to lead that court into a compliance on their part, and reparation of the breach they had committed. But the other party now laid hold of those very proceedings of our states, which their previous infractions had produced, as a ground for further refusal, and inverting the natural order of cause and effect, alleged that these proceedings of ours were the causes of the infractions, which they had committed months and years before. Thus the British minister for foreign affairs, in his answer of February 28th, 1786, to Mr. Adam's memorial, says, "The engagements entered into by treaty ought to be mutual, and equally binding on the respective contracting parties. It would, therefore, be the height of folly, as well as injustice, to suppose one party alone obliged to a strict observance of the public faith, while the other might remain free to deviate from its own engagements, as often as convenience might render such deviation necessary, though at the expense of its own national credit and importance: I flatter myself, however, sir, that justice will speedily be done to British creditors; and I can assure you, sir, that whenever America shall manifest a real intention to fulfil her part of the treaty, Great Britain will

Interposition of congress.

Debts. Interpoſition of congreſs.

not hesitate to prove her sincerity to co-operate in whatever points depend upon her, for carrying every article of it into real and complete effect." Facts will furnish the best commentary on this letter. Let us pursue them.

The secretary for foreign affairs of the United States, by order of congress, immediately wrote circular letters to the governors of the several states, dated May 3d, 1786, [No. 31.] to obtain information, how far they had complied with the proclamation of January 14th, 1784, and the recommendation accompanying it; and April 13, 1787, congress, desirous of removing every pretext which might continue to cloak the inexecution of the treaty, wrote a circular letter to the several states, in which, in order to produce, more surely, the effect desired, they demonstrate, that congress alone possess the right of interpreting, restraining, impeding or counteracting, the operation and execution of treaties, which, on being constitutionally made, become, by the confederation, a part of the law of the land, and as such, independent of the will and power of the legislatures: that, in this point of view, the state acts, establishing provisions relative to the same objects, and incompatible with it, must be improper: resolving, that all such acts now existing ought to be forthwith repealed, as well to prevent their continuing to be regarded, as violations of the treaty, as to avoid the disagreeable necessity of discussing their validity; recommending, in order to obviate all future disputes and questions, that every state, as well those, which had passed no such acts, as those, which had, should pass an act, repealing, in general terms, all acts and parts of acts repugnant to the treaty, and encouraging them to do this, by informing them that they had the strongest assurances, that an exact compliance with the treaty, on our part, would be followed by a punctual performance of it, on the part of Great Britain.

No. 31.

State acts of acquiescence.

Sect. 39. In consequence of these letters, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, Delaware, Maryland, Virginia, and North Carolina, passed the acts, No. 32, 33, 34, 35, 36, 37, 38, 39, 40. New Jersey and Pennsylvania declared that no law existed with them, repugnant to the treaty [see Documents No. 41, 42, 43.]—Georgia had no law existing against the treaty. —South Carolina, indeed, had a law existing, which subjected all persons, foreign or native [No. 44.] to certain modifications of recovery and payment. But the liberality of her conduct, on the other points, is a proof she would have conformed in this also, had it appeared that the fullest conformity would have moved Great Britain to compliance, and had an express repeal been really necessary.

No. 32, 33, 34, 35, 36, 37, 38, 39, 40.

No. 41, 42, 43.

No. 44.

Sect. 40. For indeed all this was supererogation. It resulted from the instrument of confederation among the states, that treaties made by congress according to the confederation, were superior to the laws of the states. The circular letter of congress had declared and demonstrated it, and the several states, by their acts and explanations before mentioned, had shown it to be their own sense, as we may safely affirm it to have been the general sense of those, at least, who were of the profession of the law. Besides the proof of this, drawn from the act of confederation itself, the declaration of congress and the acts of the states before mentioned, the same principle will be found acknowledged in several of the documents hereto annexed for other purposes. Thus, in Rhode Island, Governor Collins, in his letter, No. 20, says, "The treaty, in all *its absolute parts*, has been fully complied with, and to those parts, that are merely *recommendatory*, and *depend upon the legislative discretion*, the most candid attention hath been paid." Plainly implying, that the *absolute parts* did not *depend upon the legislative discretion*. Mr. Channing the attorney for the United States, in that state, No. 19, speaking of an act passed before the treaty, says, this act was considered by our courts as *annulled by the treaty of peace*, and subsequent to the ratification thereof, no proceedings have been had thereon." The governor of Connecticut, in his letter, No. 18, says, "The sixth article of the treaty was immediately observed on receiving the same, with the proclamation of congress, the courts of justice adopted it *as a principle of law*. No further prosecutions were instituted against any person who came within that article, and all such prosecutions, as were then pending, were discontinued." Thus, prosecutions going on, under the law of the state, were discontinued, by the treaty operating as a repeal of the law. In Pennsylvania, Mr. Lewis, attorney for the United States, says, in his letter, No. 60, "The judges have, uniformly and without hesitation, declared in favor of the treaty, on the ground of its being the supreme law of the land. On this ground, they have not only discharged attainted traitors from arrests, but have frequently declared, that they were entitled by the treaty, to protection." The case of the commonwealth v. Gordon, January 1788, Dallas's reports 233, is a proof of this. In Maryland, in the case of Mildred v. Dorsey, cited in your letter [E. 4.] a law of the state, made during the war, had compelled those, who owed debts to British subjects, to pay them into the treasury of that state. This had been done by Dorsey, before the date of the treaty; yet the judges of the *state* general court decided, that the treaty not only repealed the

Debts, Treaties control laws.

No. 20.

No. 19.

No. 18.

No. 60.

Debts. Treaties controul laws.

law for the future, but for the paſt alſo, and decreed, that the defendant ſhould pay the money over again to the Britiſh creditor. In Virginia, Mr. Monroe, one of the ſenators of that ſtate in congreſs, and a lawyer of eminence, tells us, No. 52, that both court and counſel there avowed the opinion, that the treaty would controul any law of the ſtate oppoſed to it. And the legiſlature itſelf, in an act of October 1787, C. 36, concerning monies carried into the public loan office, in payment of Britiſh debts, uſe theſe expreſſions. "And whereas it belongs not to the legiſlature to decide particular queſtions, of which the judiciary have cognizance, and it is, therefore, unfit for them to determine, whether the payments ſo made into the loan-office, be good or void between the creditor and debtor." In New York, Mr. Harriſon, attorney for the United States, in that diſtrict, aſſures us, No. 45, that the act of 1782, of that ſtate, relative to debts due to perſons within the enemy's lines, was, immediately after the treaty, reſtrained *by the ſuperior courts of the ſtate*, from operating on Britiſh creditors, and that he did not know a ſingle inſtance to the contrary: a full proof, that they conſidered the treaty, as a law of the land, paramount to the law of their ſtate.

No. 52.

No. 45.

Sect. 41. The very caſe of Rutgers v. Waddington [E. 8.] which is a ſubject of complaint in your letter, is a proof that the courts conſider the treaty as paramount to the laws of the ſtates. Some parts of your information, as to that caſe, have been inexact. The ſtate of New York had, during the war, paſſed an act [C. 16.] declaring that, in any action by the proprietor of a houſe or tenement againſt the occupant, for rent or damage, no military order ſhould be a juſtification: And May 4th, 1784, after the refuſal of the Britiſh to deliver up the poſts in the ſtate of New York, that legiſlature revived the ſame act [C. 19.] Waddington, a Britiſh ſubject, had occupied a brew-houſe in New York, belonging to Rutgers, an American, while the Britiſh were in poſſeſſion of New York. During a part of the time, he had only permiſſion from the quarter-maſter-general; for another part, he had an order of the commanding officer, to authorize his poſſeſſion. After the evacuation of the city, Rutgers, under the authority of this law of the ſtate, brought an action againſt Waddington, for rent and damages, in the mayor's court of New York. Waddington pleaded the treaty, and the court declared the treaty a juſtification, in oppoſition to the law of the ſtate, for that portion of time authorized by the commanding officer, his authority being competent, and gave judgment for that part, in favor of the defendant. But for the time

he held the houſe, under permiſſion of the quarter-maſter-general only, they gave judgment againſt the defendant, conſidering the permiſſion of that officer as incompetent, according to the regulations of the exiſting powers. From this part of the judgment, the defendant appealed. The firſt part, however, was an unequivocal deciſion of the ſuperior authority of the treaty over the law. The latter part could only have been founded in an opinion of the ſenſe of the treaty in that part of the 6th article, which declares, "There ſhall be no future proſecutions againſt any perſon, for the part he may have taken in the war, and that no perſon ſhould, on that account, ſuffer any future loſs or damage in their property, &c." They muſt have underſtood this as only protecting actions, which were conformable with the laws and authority exiſting at the time and place. The tenure of the defendant under the quarter-maſter-general was not ſo conformable. That under the commanding officer was. Some may think, that murders and other crimes and offences, characteriſed, as ſuch, by the authority of the time and place, where committed, were meant to be protected by this paragraph of the treaty: and, perhaps, for peace ſake, this conſtruction may be the moſt convenient. The mayor's court, however, ſeems to have revolted at it. The defendant appealed, and the queſtion would have been authoritatively decided by the ſuperior court, had not an amicable compromiſe taken place between the parties. See Mr. Hamilton's ſtatement of this caſe, No. 46. No. 46.

Debts. Treaties controul laws.

Sect. 42. The ſame kind of doubt brought on the arreſt of John Smith Hatfield, in New-Jerſey, whoſe caſe [E. 9.] is another ground of complaint in your letter. A refugee, ſent out by the Britiſh as a ſpy, was taken within the American lines, regularly tried by a court martial, found guilty, and executed. There was one Ball, an inhabitant of the American part of Jerſey, who, contrary to the laws of his country, was in the habit of ſecretly ſupplying the Britiſh camp in Staten Iſland, with proviſions. The firſt time Ball went over, after the execution of the ſpy, of which it does not appear he had any knowledge, and certainly no agency in his proſecution, John Smith Hatfield, a refugee alſo from Jerſey, and ſome others of the ſame deſcription, ſeized him againſt the expreſs orders of the Britiſh commanding officer, brought him out of the Britiſh lines, and Hatfield hung him with his own hands. The Britiſh officer ſent a meſſage to the Americans, diſavowing this act, declaring that the Britiſh had nothing to do with it, and that thoſe who had perpetrated the crime, ought alone to ſuffer for it. The right to puniſh the guilty individual ſeems to have been yield-

Debts. Treaties controul laws.

ed by the one party, and accepted by the other, in exchange for that of retaliation on an innocent perſon; an exchange, which humanity would wiſh to ſee habitual. The criminal came afterwards into the very neighbourhood, a member of which he had murdered. Peace, indeed, had now been made, but the magiſtrate, thinking probably, that it was for the honeſt ſoldier and citizen only, and not for the murderer, and ſuppoſing, with the mayor's court of New York, that the paragraph of the treaty againſt future proſecutions meant to cover authorized acts only, and not murders and other atrocities, diſavowed by the exiſting authority, arreſted Hatfield. At the court, which met for his trial, the witneſſes failed to attend. The court releaſed the criminal from confinement, on his giving the ſecurity required by law for his appearance at another court. He fled; and you ſay that "as his friends doubted the diſpoſition of the court to determine according to the terms of the treaty, they thought it more prudent to ſuffer the forfeiture of the recognizances, than to put his life again into jeopardy." But your information, in this, ſir, has not been exact. The recognizances are not forfeited. His friends, confident in the opinion of their counſel, and the integrity of the judges, have determined to plead the treaty, and not even give themſelves the trouble of aſking a releaſe from the legiſlature: and the caſe is now depending. See the letter of Mr. Boudinot, member of congreſs for Jerſey. No. 47.

No. 47.

See Georgia Gazette, Auguſt 7th, 1790.

Sect. 43. In Georgia, Judge Walton, in a charge to a grand jury, ſays, "The ſtate of Rhode Iſland having acceded to the federal conſtitution, the union and government have become complete. To comprehend the extent of the general government, and to diſcern the relation between that and thoſe of the ſtates, will be equally our intereſt and duty. The conſtitution, laws and *treaties* of the union are *paramount*." And in the ſame ſtate, in their laſt federal circuit court, we learn from the public papers, that in a caſe wherein the plaintiffs were Brailsford and others, Britiſh ſubjects, whoſe debts had been ſequeſtered (not confiſcated) by an act of the ſtate during the war, the judges declared the treaty of peace, a repeal of the act of the ſtate, and gave judgment for the plaintiffs.

Judicatures vindicated.

Sect. 44. The integrity of thoſe opinions and proceedings of the ſeveral courts, ſhould have ſhielded them from the inſinuations hazarded againſt them. In page 17, it is ſaid, "That during the war, the legiſlatures paſſed laws to confiſcate the eſtates of the loyaliſts, to enable debtors to pay into the ſtate treaſuries paper money, then exceedingly depreciated, in diſcharge of their debts." And page 23, "The diſpenſations of law *by the ſtate courts*

have been as unpropitious to the subjects of the crown, as the legislative acts of the different assemblies." Let us compare, if you please, sir, these unpropitious opinions of our state courts, with those of foreign lawyers, writing on the same subject. * "Quod dixi de actionibus recte publicandis ita demum obtinet: si quod subditi nostri hostibus nostris debent, princeps a subditis suis revera exegerit. Si exegerit, recte solutum est, si non exegerit, pace factâ, revivisçit jus pristinum creditoris"—"secundum hæc inter gentes fere convenit, ut nominibus bello publicatis, pace deinde factâ, exacta censeantur periisse, et maneant extincta; non autem exacta revivisçant et restituantur veris creditoribus." Bynk. Q. J. P. l. 1. c. 7. But what said the judges of the state court of Maryland in the case of Mildred and Dorsey? That a debt forced from an American debtor into the treasury of his sovereign, is not extinct, but shall be paid over again to his British creditor. Which is most propitious, the unbiassed foreign jurist, or the American judge, charged with dispensing justice with favor and partiality? But from this, you say, there is an appeal. Is that the fault of the judge, or the fault of any body? Is there a country on earth, or ought there to be one, allowing no appeal from the first errors of their courts? and if allowed from errors, how will those from just judgments be prevented? In England, as in other countries, an appeal is admitted to the party thinking himself injured; and here, had the judgment been against the British creditor, and an appeal denied, there would have been better cause of complaint than for not having denied it to his adversary. If an *illegal* judgment be ultimately rendered on the appeal, then will arise the right to question its propriety.

Sect. 45. Again it is said, page 27, "In one state the *supreme federal court* has thought proper to suspend for many months the final judgment on an action of debt, brought by a British creditor." If by *the supreme federal court* be meant *the supreme court of the United States*, I have had their records examined, in order to know what may

* "*What I have said of things in action being rightly confiscated, holds thus:—If the prince really exacts from his subjects what they owed to our enemies, if he shall have exacted it, it is rightfully paid; if he shall not have exacted it, peace being made, the former right of the creditor revives—accordingly it is for the most part agreed among nations, that things in action being confiscated in war, the peace being made, those which were paid are deemed to have perished, and remain extinct; but those not paid, revive, and are restored to their true creditors.* Bynk. Q. J. P. l. 1. c. 7.

Debts, Indications vindicated.

be the case here alluded to; and I am authorized to say, there neither does, nor ever did exist any cause, before that court, between a British subject and a citizen of the United States. See the certificate of the clerk of the

No. 48.

court, No. 48. If by *the supreme federal court* be meant *one of the circuit courts of the United States*, then which circuit, in which state, and what case, is meant? In the course of enquiries I have been obliged to make, to find whether there exists any case, in any district of any circuit court of the United States, which might have given rise to this complaint, I have learnt, that an action was brought to issue, and argued in the circuit court of the United States, in Virginia, at their last term, between Jones, a British subject, plaintiff, and Walker, an American, defendant; wherein the question was the same, as in the case of Mildred and Dorsey, to wit: Whether a payment into the treasury, during the war, under a law of the state, discharged the debtor? One of the judges retiring from court, in the midst of the argument, on the accident of the death of an only son, and the case being primae impressiones in that court, it was adjourned, for consideration, till the ensuing term. Had the two remaining judges felt no motive, but of predilection to one of the parties, had they considered only to which party their wishes were propitious or unpropitious, they possibly might have decided that question on the spot. But learned enough in their science, to see difficulties which escape others, and having characters and consciences to satisfy, they followed the example so habitually and so laudably set by the courts of your country, and of every country, where law, and not favor, is the rule of decision, of taking time to consider. Time and consideration are favorable to the right cause—precipitation to the wrong one.

Sect. 46. You say again, page 25. "The few attempts to recover British debts, in the county courts of Virginia, have *universally* failed, and these are the courts wherein, from the smallness of the sum, a considerable number of debts can only be recovered." And again, page 28. "In the same state, the county courts (which alone can take cognizance of debts of limited amount) have *uniformly rejected* all suits instituted for the recovery of sums due to the subjects of the crown of Great Britain." In the first place, the county courts, till of late, have had exclusive jurisdiction only of sums below £. 10, and it is known, that a very inconsiderable proportion of the British debt, consists in demands below that sum. A late law, we are told, requires, that actions below £. 30, shall be commenced in those courts; but allows, at the same time, an appeal to correct any errors into which they may fall. In

the ſecond place, the evidence of gentlemen who are in the way of knowing the fact [No. 52, 53.] is, that though there have been accidental checks in ſome of the ſubordinate courts, ariſing from the chicanery of the debtors, and ſometimes, perhaps, a moment of error in the court itſelf, yet theſe particular inſtances have been immediately rectified, either in the ſame or the ſuperior court, while the great maſs of ſuits for the recovery of ſums due to the ſubjects of the crown of Great Britain, have been uniformly ſuſtained to judgment and execution. Debts. Judicatures vindicated. No. 52, 53.

Sect. 47. A much broader aſſertion is hazarded, page 26. "In ſome of the ſouthern ſtates, there does not exiſt a ſingle inſtance of the recovery of a Britiſh debt in their courts, though many years have expired ſince the eſtabliſhment of peace between the two countries." The particular ſtates are not ſpecified. I have, therefore, thought it my duty to extend my enquiries to all the ſtates which could be deſignated under the deſcription of ſouthern, to wit: Maryland, and thoſe to the ſouth of that.

As to Maryland, the joint certificate of the ſenators and delegates of the ſtate in congreſs, the letter of Mr. Tilghman, a gentleman of the law in the ſame ſtate, and that of Mr. Gwinn, clerk of their general court, prove that Britiſh ſuits have been maintained in the ſuperior and inferior courts throughout the ſtate without any obſtruction; that Britiſh claimants have, in every inſtance, enjoyed every facility in the tribunals of juſtice, equally with their own citizens; and have recovered in due courſe of law, and remitted large debts, as well under contracts previous, as ſubſequent to the war. No. 49, 50, 51.

In Virginia, the letters of Mr. Monroe, and Mr. Giles, members of congreſs from that ſtate, and lawyers of eminence in it, prove that the courts of law in that ſtate have been open and freely reſorted to by the Britiſh creditors, who have recovered and levied their monies without obſtruction: for we have no right to conſider as obſtructions, the dilatory pleas of here and there a debtor, diſtreſſed perhaps for time or even an accidental error of opinion in a ſubordinate court, when ſuch pleas have been over-ruled, and ſuch errors corrected in a due courſe of proceeding marked out by the laws in ſuch caſes. The general fact ſuffices to ſhow that the aſſertion under examination cannot be applied to this ſtate. No. 52, 53.

In North Carolina, Mr. Johnſton, one of the ſenators for that ſtate, tells us he has heard, indeed, but of few ſuits brought by Britiſh creditors in that ſtate: but that he never heard that any one had failed of a recovery, becauſe he was a Britiſh ſubject; and he names a particular caſe of Elmſley v. Lee's executors, "of the recovery of

Debts. Judicatures vindicated.

a British debt in the superior court at Edenton." See Mr. Johnston's letter, No. 54.

No. 54.

In South Carolina, we learn from No. 55, of particular judgments rendered, and prosecutions carried on, without obstacle, by British creditors, and that the courts are open to them there as elsewhere. As to the modifications of the execution heretofore made by the state law, having been the same for foreigner and citizen, a court would decide whether the treaty is satisfied by this equal measure; and if the British creditor is privileged by that against even the same modifications to which citizens and foreigners of all other nations were equally subjected, then the law imposing them was a mere nullity.

No. 55.

No. 56.

In Georgia, the letter of the senators and representatives in congress, No. 56, assures us that though they do not know of any recovery of a British debt in their state, neither do they know of a denial to recover since the ratification of the treaty; the creditors having mostly preferred amicable settlement; and that the federal court is open and unobstructed to British creditors there, as in any other of the United States; and this is further proved by the late recovery of Brailsford and others before cited.

Sect. 48. You say more particularly of that state, page 24, "It is to be lamented, that in a more distant state (Georgia) it was a received principle, inculcated by an opinion of the highest judicial authority there, that as no legislative act of the state existed, confirming the treaty of peace with Great Britain, war still continued between the two countries; *a principle which may perhaps still continue in that state.*" No judge, no case, no time, is named. Imputations on the judiciary of a country are too serious to be neglected. I have thought it my duty, therefore, to spare no endeavours to find on what fact this censure was meant to be affixed. I have found that Judge Walton of Georgia, in the summer of 1783, the definitive treaty not yet signed in Europe, much less known and ratified here, set aside a writ in the case of Thompson, a British subject v. Thompson, assigning for reasons, 1st, "That there was no law authorizing a subject of England to sue a citizen of that state; 2d, That the war had not been *definitely* concluded; or 3d, if concluded, the treaty not *known to, or ratified by*, the legislature; nor 4th, Was it in any manner ascertained how those debts were to be liquidated." With respect to the last reason, it was generally expected that some more specific arrangements, as to the manner of liquidating, and times of paying British debts would have been settled in the definitive treaty, No. 58, shows that such arrangements were under contemplation. And the judge seems to have been of opinion, that it was necessary the treaty

No. 58.

ſhould be *definitely* concluded, before it could become a law of the land, ſo as to change the legal character of an *alien enemy*, who cannot maintain an action, into that of an *alien friend*, who may. Without entering into the queſtion, whether between the proviſional and definitive treaties, a ſubject of either party could maintain an action in the courts of the other (a queſtion of no conſequence, conſidering how ſhort the interval was, and this, probably, the only action eſſayed) we muſt admit that if the judge was right in his opinion, that a *definitive* concluſion was neceſſary, he was right in his conſequence that it ſhould be *made known* to the legiſlature of the ſtate, or in other words to the ſtate, and that, till that *notification*, it was not a law authorizing a ſubject of England to ſue a citizen of that ſtate. The ſubſequent doctrine of the ſame Judge Walton, with reſpect to treaties, *when duly completed*, that they are paramount to the laws of the ſeveral ſtates, as has been ſeen in his charge to a grand jury before ſpoken of (ſect. 43.) will relieve your doubts whether the "principle ſtill continues in that ſtate, of the *continuance of war between the two countries.*" Debts. Judicature vindicated.

Sect. 49. The latter part of the quotation before made, merits a notice alſo, to wit, where, after ſaying not a ſingle inſtance exiſts of the recovery of a Britiſh debt, it is, added, "Though many years have expired ſince the eſtabliſhment of peace between the two countries." It is evident from the preceding teſtimony, that many ſuits have been brought, and with effect: yet it has often been matter of ſurprize that more were not brought, and earlier, ſince it is moſt certain that the courts would have ſuſtained their actions and given them judgments. This abſtinence on the part of the creditors has excited a ſuſpicion that they wiſhed rather to recur to the treaſury of their own country; and to have colour for this, they would have it believed that there were obſtructions here to the bringing their ſuits. Their teſtimony is in fact the ſole, to which your court till now, has given acceſs. Had the opportunity now preſented, been given us ſooner, they ſhould ſooner have known that the courts of the United States, whenever the creditors would chooſe that recourſe, and would preſs, if neceſſary, to the higheſt tribunals, would be found as open to their ſuits, and as impartial to their ſubjects, as theirs to ours.

Sect. 50. There is an expreſſion in your letter, page 16, that "Britiſh creditors have not been countenanced or ſupported, either by the reſpective legiſlatures, or by the ſtate courts, in their endeavours to recover the full value of debts contracted antecedently to the treaty of peace." And again, "In many of the ſtates, the ſubjects of the Popular interference.

Debts. Popular interference.

crown, in endeavouring to obtain the reſtitution of their forfeited eſtates and property, have been treated with indignity." From which an inference might be drawn, which I am ſure you did not intend, to wit: That the creditors have been deterred from reſorting to the courts, by popular tumults, and not protected by the laws of the country. I recollect to have heard of one or two attempts, by popular collections, to deter the proſecution of Britiſh claims. One of theſe is mentioned in No. 49. But theſe were immediately on the cloſe of the war, while its paſſions had not yet had time to ſubſide, and while the aſhes of our houſes were ſtill ſmoking. Since that, ſay for many years paſt, nothing like popular interpoſition, on this ſubject, has been heard of, in any part of our land. There is no country which is not, ſometimes, ſubject to irregular interpoſitions of the people. There is no country able, at all times, to puniſh them. There is no country, which has leſs of this to reproach itſelf with, than the United States, nor any, where the laws have a more regular courſe, or are more habitually and cheerfully acquieſced in. Confident, that your own obſervation and information will have ſatisfied you of this truth, I rely that the inference was not intended, which ſeems to reſult from theſe expreſſions.

Preſent ſtate of debt.

Sect. 51. Some notice is to be taken, as to the great deficiencies in collection urged on behalf of the Britiſh merchants. The courſe of our commerce with Great Britain, was ever for the merchant there to give his correſpondent here a year's credit: So that we were regularly indebted from a year to a year and a half's amount of our exports. It is the opinion of judicious merchants, that it never exceeded the latter term, and that it did not exceed the former at the commencement of the war. Let the holders then of this debt be claſſed into, 1ſt, Thoſe who were inſolvent at that time. 2d, Thoſe ſolvent then, who became inſolvent during the operations of the war, a numerous claſs. 3d, Thoſe ſolvent at the cloſe of the war, but inſolvent now. 4th, Thoſe ſolvent at the cloſe of the war, who have ſince paid or ſettled ſatisfactorily with their creditors, a numerous claſs alſo. 5th, Thoſe ſolvent then and now, who have neither paid, nor made ſatisfactory arrangements with their creditors. This laſt claſs, the only one now in queſtion, is little numerous, and the amount of their debts but a moderate proportion of the aggregate which was due at the commencement of the war; inſomuch, that it is the opinion, that we do not owe to Great Britain, at this moment, of ſeperate debts, old and new more than a year, or a year and quarter's exports, the ordinary amount of the debt reſulting from the common courſe of dealings.

Sect. 52. In drawing a comparison between the proceedings of Great Britain and the United States, you say, page 28, "The conduct of Great Britain, in all these respects, has been widely different from that which has been observed by the United States. In the courts of law of the former country, the citizens of the United States have experienced, *without exception*, the same protection and *impartial* distribution of justice, as the subjects of the crown." No nation can answer for perfect exactitude of proceedings in all their inferior courts. It suffices to provide a supreme judicature, where all error and partiality will be ultimately corrected. With this qualification, we have heretofore been in the habit of considering the administration of justice in Great Britain as extremely pure. With the same qualification, we have no fear to risk every thing, which a nation holds dear, on the assertion, that the administration of justice here, will be found equally pure. When the citizens of either party complain of the judiciary proceedings of the other, they naturally present but one side of the case to view, and are, therefore, to be listened to with caution. Numerous condemnations have taken place in your courts, of vessels taken from us after the expirations of the terms of one and two months stipulated in the armistice. The state of Maryland has been making ineffectual efforts, for nine years, to recover a sum of £. 55,000 sterling, lodged in the bank of England previous to the war. A judge of the king's bench lately declared, in the case of Greene, an American citizen, v. Buchanan and Charnock, British subjects, that a citizen of the United States, who has delivered £. 43,000 sterling worth of East India goods, to a British subject at Ostend, receiving £. 18,000 in part payment, is not entitled to maintain an action for the balance in a court of Great Britain, though his debtor is found there, is in custody of the court, and acknowledges the facts. These cases appear strong to us. If your judges have done wrong in them, we expect redress. If right, we expect explanations. Some of them have already been laid before your court. The others will be so, in due time. These, and such as these, are the smaller matters between the two nations, which, in my letter of December 15, I had the honor to intimate, that it would be better to refer for settlement through the ordinary channel of our ministers, than embarrass the present important discussions with them.

Recrimination on British courts.

Such cases will be constantly produced by a collision of interests in the dealings of individuals, and will be easily adjusted by a readiness to do right on both sides, regardless of party.

III. Intereſt. Sect. 53. It is made an objection to the proceedings of our legiſlative and judiciary bodies, that they have refuſed to allow intereſt to run on debts during the courſe of the war. The deciſion of the right to this reſts with the judiciary alone, neither the legiſlative nor the executive having any authority to intermeddle.

The adminiſtration of juſtice is a branch of the ſovereignty over a country, and belongs excluſively to the nation inhabiting it. No foreign power can pretend to participate in their juriſdiction, or that their citizens received there are not ſubject to it. When a cauſe has been adjudged according to the rules and forms of the country, its juſtice ought to be preſumed. Even error in the higheſt court which has been provided as the laſt means of correcting the errors of others, and whoſe decrees are, therefore, ſubject to no further reviſal, is one of thoſe inconveniencies flowing from the imperfection of our faculties, to which every ſociety muſt ſubmit; becauſe there muſt be ſome where a laſt reſort, wherein conteſtations may end. Multiply bodies of reviſal as you pleaſe, their number muſt ſtill be finite, and they muſt finiſh in the hands of fallible men as judges. If the error be evident, palpable, * et in re minimè dubiâ, it then indeed aſſumes another form, it excites preſumption that it was not mere error, but premeditated wrong, and the foreigner, as well as native, ſuffering by the wrong, may reaſonably complain, as for a wrong committed in any other way. In ſuch caſe, there being no redreſs in the ordinary forms of the country, a foreign prince may liſten to complaint from his ſubjects injured by the adjudication, may enquire into its principles, to prove their criminality, and, according to the magnitude of the wrong, take his meaſures of redreſs by repriſal, or by a refuſal of right on his part. If the denial of intereſt, in our caſe, be juſtified by law, or even if it be againſt law, but not in that groſs, evident, and palpable degree, which proves it to flow from the wickedneſs of the heart, and not error of the head in the judges, then is it no cauſe for juſt complaint, much leſs for a refuſal of right, or ſelf redreſs in any other way. The reaſons on which the denial of intereſt is grounded ſhall be ſtated ſummarily, yet ſufficiently to juſtify the integrity of the judge, and even to induce a preſumption that they might be extended to that of his ſcience alſo, were that material to the preſent object.

Sect. 54. The treaty is the text of the law in the preſent caſe, and its words are, that there ſhall be no lawful impediment to the recovery of bona fide *debts*. Nothing is

* *In a manner ſuſceptible of no doubt.*

said of *interest* on those debts: and the sole question is, whether, where a *debt* is given, *interest* thereon flows from the general principles of the law? Interest is not a part of the debt, but something added to the debt, by way of damage for the detention of it. This is the definition of the English lawyers themselves, who say, "Interest is recovered by way of *damages* * ratione detentionis debiti." 2 Salk. 622, 623. Formerly all interest was considered as unlawful, in every country of Europe: it is still so in Roman Catholic countries, and countries little commercial. From this, as a general rule, a few special cases are excepted. In France, particularly, the exceptions are those of minors, marriage portions, and money, the price of lands. So thoroughly do their laws condemn the allowance of interest, that a party, who has paid it voluntarily, may recover it back again whenever he pleases. Yet this has never been taken up as a gross and flagrant denial of justice, authorizing national complaint against those governments. In England also all interest was against law, till the Stat. 37. H. 8. C. 9. the growing spirit of commerce, no longer restrained by the principles of the Roman church, then first began to tolerate it. The same causes produced the same effect in Holland, and, perhaps, in some other commercial and Catholic countries. But even in England, the allowance of interest is not given by *express law*, but rests on the *discretion of judges and juries*, as the arbiters of damages. Sometimes the judge has enlarged the interest to 20 per cent. per annum (1 Chanc. Rep. 57.) In other cases he fixes it, habitually, one per cent. lower than the legal rate (2 Te. Atk. 343.) and in a multitude of cases he refuses it altogether. As for instance, no interest is allowed, interest.

1. On arrears of rents, profits, or annuities (1 Chan. Rep. 184. 2. P. W. 163. Ca. temp. Talbot 2.)
2. For maintenance, Vin. Abr. Interest. C. 10.
3. For monies advanced by executors. 2. Abr. eq. 531. 15.
4. For goods sold and delivered. 3 Wilson 206.
5. On book-debts, open accounts, or simple contracts. 3. Chan. Rep. 64. Freem. ch. rep. 133. Dougl. 376.
6. For money lent without a note. 2. Stra. 910.
7. On an inland bill of exchange, if no protest is taken. 2. Stra. 910.
8. On a bond after 20 years. 2. Vern. 458. or after a tender.
9. On a decree in certain cases. Freem. ch. rep. 181.

* *On account of the detention of the debt.*

Interest.

10. On judgments in certain cases, as battery and slander. Freem. ch. rep. 37.

11. On any decrees or judgments in certain courts, as the exchequer chamber. Douglas, 753.

12. On costs. 2. Abr. eq. 530. 7.

And we may add, once for all, that there is no instrument or title to debt so formal and sacred, as to give a right to interest on it under all possible circumstances. The words of Lord Mansfield, Dougl. 753, where he says, "That the question was, what was to be the rule for assessing the *damage*, and that, in this case, the *interest* ought to be the *measure of the damage*, the action being for a *debt*, but in a case of another sort, *the rule might be different*:" his words, Dougl. 376, "That interest might be payable in cases of delay, if a jury, *in their discretion*, shall think fit to allow it." And the doctrine in Giles v. Hart. 2. Salk. 622, that damages, or interest, are but an accessary to the debt, which may be barred by circumstances, which do not touch the debt itself, suffice to prove, that interest is not a part of the debt, neither comprehended in the thing, nor in the term, that words, which pass the debt, do not give interest necessarily, that the interest *depends altogether on the discretion of the judges and jurors*, who will govern themselves by all existing circumstances, will take the legal interest for the measure of their damages, or more, or less, as they think right, will give it from the date of the contract, or from a year after, or deny it altogether, according as the fault or the sufferings of the one or the other party shall dictate. Our laws are, generally, an adoption of yours; and I do not know that any of the states have changed them in this particular. But there is one rule of your and our law, which, while it proves that every title of debt is liable to a disallowance of interest, under special circumstances, is so applicable to our case, that I shall cite it as a text, and apply to it the circumstances of our case. It is laid down in Vin. Abr. Interest C. 7. and 2. Abr. eq. 5293, and elsewhere, in these words. "Where, by a *general and national calamity*, nothing is made out of lands, which are assigned for payment of interest, it ought not to run on *during the time of such calamity*." This is exactly the case in question. Can a more *general national calamity* be conceived than that universal devastation, which took place in many of these states during the war? Was it ever more exactly the case any where, *that nothing was made out of the lands which were to pay the interest?* The produce of those lands, for want of the opportunity of exporting it safely, was down to almost nothing in real money, e. g. Tobacco was less than a dollar the 100lb.

Imported articles of clothing or consumption, were from four to eight times their usual price. A bushel of salt was usually sold for 100lb. of tobacco. At the same time, these lands, and other property, in which the money of the British creditors was vested, were paying high taxes for their own protection, and the debtor, as nominal holder, stood ultimate insurer of their value to the creditor, who was the real proprietor, because they were bought with his money. And who will estimate the value of this insurance, or say what would have been the forfeit, in a contrary event of the war? Who will say that the risk of the property was not worth the interest of its price? *general calamity* then prevented profit, and consequently stopped interest, which is the lieu of profit. The creditor says, indeed, he has laid out of his money; he has, therefore, lost the use of it. The debtor replies that if the creditor has lost, he has not gained it: that this may be a question between two parties, both of whom have lost. In that case the courts will not double the loss of the one, to save all loss from the other. That it is a rule of natural, as well as municipal law, that, in questions de damno evitando melior est conditio possidentis. If this maxim be just, where each party is equally innocent, how much more so, where the loss has been produced by the act of the creditor? For a nation as a society, forms a moral person, and every member of it is personally responsible for his society. It was the act of the lender, or of his nation which annihilated the profits of the money lent; he cannot then demand profits which he either prevented from coming into existence, or burnt or otherwise destroyed after they were produced. If then, there be no instrument or title of debt so formal and sacred as to give right to interest under all possible circumstances, and if circumstances of exemption, stronger than in the present case, cannot possibly be found, then no instrument or title of debt, however formal or sacred, can give right to interest under the circumstances of our case. Let us present the question in another point of view. Your own law forbade the payment of interest when it forbade the receipt of American produce into Great Britain, and made that produce fair prize on its way from the debtor to the creditor, or to any other for his use and reimbursement. All personal access between creditor and debtor was made illegal: and the debtor who endeavoured to make a remitment of his debt, or interest, must have done it three times, to answer its getting once to hand: for two out of three vessels were generally taken by the creditor nation, and sometimes by the creditor himself, as many of them turned their trading vessels into privateers. Where no place has been agreed on for the payment of a Interest.

Intereſt. debt, the laws of England oblige the debtor to ſeek his creditor whereſoever he is to be found *within the realm.* Coke Lit. 210. b. but do not bind him to go out of the realm in ſearch of him. This is our law too. The firſt act, generally, of the creditors and their agents here, was to withdraw from the United States with their books and papers. The creditor thus withdrawing from his debtor, ſo as to render payment impoſſible, either of the principal or intereſt, makes it like the common caſe of a tender and refuſal of money, after which intereſt ſtops both by your laws and ours. We ſee, too, from the letter of Mr. Adams, No. 57. June, 16, 1786, No. 57, that the Britiſh ſecretary for foreign affairs was ſenſible, that a Britiſh ſtatute having rendered criminal all intercourſe between the debtor and creditor, had placed the article of intereſt on a different footing from the principal. And the letter of our plenipotentiaries to Mr. Hartley, the Britiſh plenipotentiary for No. 58. forming the definitive treaty, No. 58, ſhows that the omiſſion to expreſs *intereſt* in the treaty was not merely an overſight of the parties; that its allowance was conſidered by our plenipotentiaries as a thing not to be intended in the treaty, was declared againſt by congreſs, and that declaration communicated to Mr. Hartley. After ſuch an explanation, the omiſſion is a proof of acquieſcence, and an intention not to claim it. It appears then, that the *debt* and *intereſt* on that debt are ſeparate things in every country, and under ſeparate rules. That in every country a *debt* is recoverable, while, in moſt countries, intereſt is refuſed in all caſes; in others, given, or refuſed, diminiſhed, or augmented, at the diſcretion of the judge; no where given in all caſes indiſcriminately, and conſequently no where ſo incorporated with the *debt*, as to paſs with that ex vi termini, or otherwiſe to be conſidered as a determinate and veſtat thing.

While the taking *intereſt on money* has thus been conſidered in ſome countries, as morally wrong in all caſes, in others made legally right but in particular caſes, the taking *profits from lands* or rents in lieu of profits, has been allowed every where, and at all times, both in morality and law. Hence it is laid down as a general rule, Wolf, ſect. 229* "Si quis fundum alienum poſſidet, domini eſt quantum valet uſus fundi, et poſſeſſoris quantum valet ejus cultura et cura." But even in the caſe of lands reſtored by a treaty, the *arrears* of profits or rents are never reſtored, unleſs

* "*If any one is in poſſeſſion of another's lands, ſo much belongs to the owner as the uſe of the land is worth, and ſo much to the poſſeſſor as his labour and care are worth.*"

they be particularly ſtipulated.† "Si res vi pacis reſtituendæ, reſtituendi quoque ſunt fructus à die *conceſſionis*," ſays Wolf, ſect. 1224. And Grotius "cui pace res conceditur, ei et fructus conceduntur à *tempore conceſſionis:* NON RETRO." L. 3. c. 20. ſ. 22. To place the right to intereſt on money on a level with the right to profits on land, is placing it more advantageouſly than has been hitherto authorized; and if, as we have ſeen, a ſtipulation to reſtore *lands* does not include a ſtipulation to reſtore the *back profits*, we may certainly conclude, a fortiori, that the reſtitution of debts does not include an allowance of *back intereſt* on them. Intereſt.

Theſe reaſons and others like theſe, have probably operated on the different courts to produce deciſions that "no intereſt ſhould run during the time this general and national calamity laſted." And they ſeem ſufficient, at leaſt, to reſcue their deciſions from that flagrant denial of right, which can alone authorize one nation to come forward with complaints againſt the judiciary proceedings of another.

Sect. 55. The ſtates have been uniform in the allowance of intereſt before and ſince the war, but not of that claimed during the war. Thus we know by [E. 1.] the caſe of Neale's executors *v.* Sands in New York, and Mildred *v.* Dorſey in Maryland, that in thoſe ſtates, intereſt during the war is diſallowed by the courts. By [D. 8.] 1784, May, the act relating to debts due to perſons who have been, and remained within the enemy's power or lines during the late war. That Connecticut left it to their court of chancery to determine the matter according to the rules of equity, or to leave it to referees; by [E. 2.] the caſe of Oſborne *v.* Mifflin's executors, and [E. 3.] Hoare *v.* Allen, explained in the letter of Mr. Rawle, attorney of the United States, No. 59. And by the letter of Mr. Lewis, judge of the diſtrict court of the United States, No. 60, that in Pennſylvania the rule is, that where neither the creditor nor any agent, was within the ſtate, no intereſt was allowed; where either remained, they gave intereſt. In all the other ſtates I believe it is left diſcretionary in the courts and juries. In Maſſachuſetts, the practice has varied. In November, 1784, they inſtruct their delegates in congreſs to aſk the determination of congreſs, whether they underſtood the word "debts" in the treaty, No. 59. No. 60.

† "*If things are to be reſtored by virtue of the peace, the profits are alſo to be reſtored* from the day of the ceſſion.

"*To whomſoever a thing is conceded by the peace, to him alſo the profits are conceded,* from the time of the conceſſion, BUT NOT BACK."

Intereſt. as including intereſt? and whether it is their opinion, that intereſt during the war ſhould be paid? and at the ſame time they paſs [D. 9.] the act directing the courts to ſuſpend rendering judgment for any intereſt that might have accrued between April 19, 1775, and January 20, 1783. But in 1787, when there was a general compliance enacted through all the United States, in order to ſee if that would produce a counter-compliance, their legiſlature paſſed the act repealing all laws repugnant to the
No. 33. treaty, No. 33, and their courts, on their part, changed their rule relative to intereſt during the war, which they have uniformly allowed ſince that time. The circuit court of the United States, at their ſeſſions at in 1790, determined in like manner that intereſt ſhould be allowed during the war. So that on the whole we ſee that, in one ſtate, intereſt during the war is given in every caſe, in another it is given wherever the creditor, or any agent for him, remained in the country, ſo as to be acceſſible; in the others, it is left to the courts and juries to decide according to their diſcretion and the circumſtances of the caſe.

TO RECAPITULATE.

Sect. 56. I have, by way of PRELIMINARY, placed out of the preſent diſcuſſion, all acts and proceedings PRIOR to the TREATY OF PEACE, conſidering them as ſettled by that inſtrument, and that the then ſtate of THINGS was adopted by the parties,

With ſuch alterations only as that inſtrument provided.

I have then taken up the SUBSEQUENT ACTS AND PROCEEDINGS, of which you complain, as infractions, diſtributing them according to their ſubjects, to wit;

I. EXILE AND CONFISCATIONS.
II. DEBTS.
III. INTEREST.

I. EXILE AND CONFISCATIONS. After premiſing, that theſe are lawful acts of war, I have ſhown that the 5th article was RECOMMENDATORY, only, its ſtipulations being, not to *reſtore* the confiſcations and exiles, but to *recommend* to the ſtate legiſlatures to reſtore them.

That this word, having but one meaning, eſtabliſhes the intent of the parties; and moreover, that it was particularly explained by the American negociators, that the legiſlatures would be free to comply with the recommendation or not, and probably would not comply.

That the Britiſh *negociators* ſo underſtood it:

That the Britiſh *miniſtry* ſo underſtood it:

And the members of both houſes of *parliament*, as well thoſe who approved, as who diſapproved, the article.

I have shown, that congress did recommend earnestly and bona fide:

That the states refused or complied, in a greater or less degree, according to circumstances, but more of them, and in a greater degree, than was expected.

And that compensation, by the British treasury, to British sufferers, was the alternative of her own choice, our negociators having offered to do that, if she would compensate such losses as we had sustained by acts unauthorized by the modern and moderate principles of war.

II. Before entering on the subject of DEBTS, it was necessary,

1. To review the British infractions, and refer them to their exact dates.

To show, that the carrying away of the *negroes* preceded the 6th of May, 1783.

That instead of evacuating the *upper posts with all convenient speed*, no order had been received for the evacuation, August 13, 1783.

None had been received May 10, 1784.

None had been received July 13, 1784.

From whence I conclude none had ever been *given*:

And thence, that none had ever been *intended*.

In the latter case, this infraction would date from the signature of the treaty. But founding it on the *not giving the order with convenient speed*, it dates from April, 1783, when the order for evacuating New York was given, as there can be no reason, why it should have been inconvenient to give this order as early.

The INFRACTION then, respecting the upper POSTS, was before the treaty was known in America.

That respecting the negroes was as soon as it was known.

I have observed, that these infractions were highly injurious.

The first, by depriving us of our FUR TRADE, profitable in itself, and valuable as a means of remittance for paying the debts; by intercepting our friendly and neighbourly intercourse with the Indian nations, and consequently keeping us in constant, expensive, and barbarous war with them.

The second, by withdrawing the cultivators of the soil, the produce of which was to pay the debts.

2. After fixing the date of the British infractions, I have shown,

That as they *preceded*, so they *produced*, the acts on our part complained of, as obstacles to the recovery of the debts.

That when one party breaks any stipulation of a treaty, the other is free to break it also, either in the whole, or in equivalent parts, at its pleasure.

That congress having made no elections,

Four of the states assumed, separately, to modify the recovery of debts.

1. By indulging their citizens with longer and more practicable times of payment.

2. By liberating their bodies from execution, on their delivering property to the creditor, to the full amount of his demand, on a fair appraiſement, as practiſed always under the ELEGIT.

3. By admitting, during the firſt moments of the non-exiſtence of coin among us, a diſcharge of executions, by payment in paper money.

That the firſt of theſe acts of retaliation, was in December, 1783, nine months after the infractions committed by the other party.

And all of them were ſo moderate, of ſo ſhort duration, the reſult of ſuch neceſſities, and ſo produced, that we might, with confidence, have referred them alterius principus, qua boni viri, arbitrio.

3. That induced, at length, by aſſurances from the Britiſh court, that they would concur in a fulfilment of the treaty,

Congreſs, in 1787, declared to the ſtates, its will, that even the appearance of obſtacle, raiſed by their acts, ſhould no longer continue,

And required a formal repeal of every act of that nature; and to avoid queſtion, required it, as well from thoſe who had not, as from thoſe who had paſſed ſuch acts; which was complied with ſo fully, that no ſuch laws remained in any ſtate of the union, except one;

And even that one could not have forborne, if any ſymptom of compliance from the oppoſite party, had rendered a reiterated requiſition from congreſs important.

4. That, indeed, the requiring ſuch a repeal, was only to take away pretext.

For that it was, at all times, perfectly underſtood, that TREATIES CONTROULED the laws of the ſtates,

The confederation having made them obligatory on the whole:

Congreſs having ſo declared and demonſtrated them:

The legiſlatures and executives of moſt of the ſtates, having admitted it:

And the judiciaries, both of the ſeparate and general governments, ſo deciding.

That the courts are open every where, upon this principle:

That the Britiſh creditors have, for ſome time, been in the habit and courſe of recovering their debts at law.

That the claſs of ſeparate and unſettled debts contracted before the war, forms now but a ſmall proportion of the original amount.

That the integrity and independence of the courts of juſtice, in the United States, are liable to no reproach.

Nor have popular tumults furniſhed any ground for ſuggeſting, that either courts or creditors are over-awed by them in their proceedings.

III. Proceeding to the article of INTEREST, I have obſerved,

That the deciſion, whether it ſhall or ſhall not be allowed *during the war*, reſts, by our conſtitution, with the courts altogether.

That if theſe have generally decided againſt the allowance, the reaſons of their deciſion appear ſo weighty, as to clear them from the charge of that palpable degree of wrong, which may authorize national complaint, or give a right of refuſing execution of the treaty, by way of repriſal.

To vindicate them, I have ſtated ſhortly, ſome of the reaſons which ſupport their opinion.

That INTEREST DURING THE WAR, was not *expreſsly* given by the treaty;

That the revival of DEBTS did not, ex vi termini, give intereſt on them:

That intereſt is not a part of the debt, but damages for the detention of the debt:

That it is diſallowed habitually in moſt countries;

Yet has never been deemed a ground of national complaint againſt them:

That in England alſo, it was formerly unlawful in all caſes:

That at this day it is denied there, in ſuch a variety of inſtances, as to protect from it a great part of the tranſactions of life:

That, in fact, there is not a ſingle *title* to debt, ſo formal and ſacred, as to give a right to INTEREST, under all poſſible circumſtances, either there or here:

That of theſe circumſtances, judges and jurors are to decide, *in their diſcretion*, and are accordingly in the habit of augmenting, diminiſhing, or refuſing intereſt, in every caſe, according to their diſcretion;

That the circumſtances againſt the allowance, are unqueſtionably of the ſtrongeſt in our caſe:

That a *great national calamity* rendering the lands unproductive, which were to pay the intereſt, has been adjudged a ſufficient cauſe, of itſelf, to ſuſpend intereſt;

That were both plaintiff and defendant equally innocent of that cauſe,

The queſtion, Who ſhould avoid loſs? would be in favour of the party in poſſeſſion:

And, a fortiori, in his favor, where the calamity was produced by the act of the demandant:

That, moreover, the laws of the party creditor, had cut off the *perſonal* acceſs of his debtor,

And the tranſportation of his *produce or money* to the country of the creditor, or to any other for him:

And where the creditor prevents payment both of PRINCIPAL AND INTEREST, the latter, at leaſt, is juſtly extinguiſhed:

That the *departure* of the creditor, leaving no agent in the country of the debtor, would have ſtopped intereſt of itſelf:

The debtor not being obliged to go out of the country to ſeek him.

That the Britiſh miniſter was heretofore ſenſible of the weight of the objections to the claim of intereſt:

That the declarations of congreſs and our plenipotentiaries, *previous to the definitive treaty*, and the ſilence of that inſtrument, afford proof that intereſt was not intended, on our part, nor inſiſted on, on the other:

That were we to admit intereſt on money, to equal favor with profits on land, arrears of profits would not be demandable in the preſent caſe, nor conſequently arrears of intereſt:

And, on the whole, without undertaking to ſay what the law is, which is not the province of the executive,

We ſay, that the reaſons of thoſe judges, who deny intereſt during the war, *appear ſufficiently cogent*,

To account for their opinion on honeſt principles:

To exempt it from the charge of palpable and flagrant wrong, in re minimé dubiâ:

And to take away all pretence of withholding execution of the treaty, by way of repriſal for that cauſe.

Sect. 57. I have now, ſir, gone through the ſeveral acts and proceedings enumerated in your appendix, as infractions of the treaty, omitting, I believe, not a ſingle one, as may be ſeen by a table hereto ſubjoined, wherein every one of them, as marked and numbered in your appendix, is referred to the ſection of this letter, in which it is brought into view, and the reſult has been as you have ſeen,

1. That there was no abſolute ſtipulation to reſtore *antecedent* confiſcations, and that none *ſubſequent* took place.

2. That the recovery of the debts was obſtructed *validly* in none of our ſtates, *invalidly* only in a few, and that not till long after the infractions committed on the other ſide; and

3. That the deciſions of courts and juries againſt the claims of intereſt, are too probably founded, to give cauſe for queſtioning their integrity. Theſe things being evident, I cannot but flatter myſelf, after the aſſurances received from you of his Britannic majeſty's deſire to remove every occaſion of miſunderſtanding from between us, that an end will now be put to the diſquieting ſituation of the two countries, by as complete execution of the treaty as circumſtances render practicable at this late day: That it is to be done ſo late, has been the ſource of heavy loſſes of blood and treaſure, to the United States. Still our deſire of friendly accommodation is, and has been, conſtant. No "*lawful impediment* has been oppoſed to the proſecution of the juſt rights of your citizens." And if any inſtances of *unlawful* impediment have exiſted in any of the inferior tribunals, they would, like other unlawful proceedings, have been over-ruled on an appeal to the

higher courts. If not overruled there, a complaint to the government would have been regular, and their interference probably effectual. If your citizens would not prosecute their rights, it was impossible they should recover them, or be denied recovery; and till a denial of right through all the tribunals, there is no ground for complaint, much less for a refusal to comply with solemn stipulations, the execution of which is too important to us ever to be dispensed with. These difficulties being removed from between the two nations, I am persuaded the interests of both will be found in the strictest friendship. The considerations which lead to it are too numerous and forcible to fail of their effect; and, that they may be permitted to have their full effect, no one wishes more sincerely, than he who has the honor to be, with sentiments of the most perfect esteem and respect,

Sir,

Your most obedient, and most humble servant,

TH. JEFFERSON.

PHILADELPHIA, May 29th, 1792.

A. 1. § 2.	A. 25. § 2.	C. 5. § 13.	D. 10. § 2.
2. § 2.	26. § 2.	6. § 13.	11. § 12.14.
3. § 2.	27. § 2.	7. § 12.	12. § 32.
4. § 2.	28. § 2.	8. § 8.	13. § 33.
5. § 19.	29. § 2.	9. § 11.	14. § 31.
6. § 2.	30. § 2.10.	10. § 2.	15. § 34.
7. § 2.	31. § 11.	11. § 20.	16. § 2.32.
8. § 2.	32. § 2.	12. § 20.	17. § 33.
9. § 2.	33. § 17.	13. § 20.	18. § 33.
10. § 2.	34. § 2.	14. § 20.	19. § 34.
11. § 2.	B. 1. § 21.	15. § 2.16.	20. § 31.
12. § 2.	2. § 12.	16. § 2.41.	21. § 31.
13. § 2.	3. § 12.	17. § 2.	22. § 31.
14. § 2.	4. § 10.	18. § 2.	E. 1. § 55.
15. § 2.	5. § 11.	19. § 41.	2. § 55.
16. § 2.	6. § 11.	D. 1. § 2.	3. § 55.
17. § 2.	7. § 10.	2. § 2.	4. § 40.44.
18. § 2.	8. § 10.	3. § 2.	5. § 2.
19. § 2.	9. § 14.	4. § 2.	6. § 30.
20. § 2.	10. § 14.	5. § 30.	7. § 30.
21. § 2.	C. 1. § 12.	6. § 2.	8. § 41.
22. § 2.	2. § 21.	7. § 31.	9. § 42.
23. § 2.	3. § 10.	8. § 55.	
24. § 2.	4. § 18.	9. § 55.	

APPENDIX, No. I.

1772, 12 G. 3. C. 24. An act for the better securing and preserving his majesty's dock-yards, magazines, ships, ammunition and stores. See 1. journal congress, 68, "persons *charged* with committing any offence therein described, in any place out of the realm, whereby inhabitants of these colonies, may in sundry cases by that statute made capital, be deprived of a trial by peers of the vicinage."

1774, 14 G. 3. C. 191. An act to discontinue, in such manner, and for such time as are therein mentioned, the landing and discharging, lading or shipping, of goods, wares and merchandize, at the town, and within the harbour of Boston, in the province of Massachusetts Bay, in North America.

C. 39. An act for the impartial administration of justice in the cases of persons questioned for any acts done by them in the execution of the law, or for the suppression of riots and tumults in the province of the Massachusetts Bay, in New England.

1775. 15 G. 3. C. 10. An act to restrain the trade and commerce of the provinces of Massachusetts Bay and New Hampshire, and colonies of Connecticut, and Rhode Island and Providence Plantations, in North America, to Great Britain, Ireland, and the British islands in the West Indies, and to prohibit such provinces and colonies from carrying on any fishery on the banks of Newfoundland, or other places therein mentioned, under certain conditions and limitations.

C. 35. An act to amend and render more effectual in his majesty's dominions in America, an act passed in the present session of parliament, entitled an act for punishing mutiny and desertion, and for the better payment of the army, and their quarters, and for extending the provisions of the said act to his majesty's marine forces in America.

1776. 16 G. 3. C. 5. An act to prohibit all trade and intercourse with the colonies of New Hampshire, Massachusetts Bay, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, the three lower counties on Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, during the continuance of the present rebellion, with the said colonies respectively; for repealing an act made in the 14th year of the reign of his present majesty, to discontinue the landing and discharging, lading or shipping of goods, wares and merchandize, at the town, and within the harbour of Boston, in the province of Massachusetts Bay, and also two acts made in the last session of parliament for restraining the trade and commerce of the colonies, in the said acts respectively mentioned, and to enable any person or persons appointed, and authorized by his

majesty to grant pardons, to issue proclamations in the cases and for the purposes therein mentioned.

An act for enabling the commissioners for executing the office of lord high admiral of Great Britain, to grant commissions to the commanders of private ships and vessels employed in trade, or retained in his majesty's service to take and make prize of all such ships and vessels, and their cargoes as are therein mentioned, for a limited time. C. 7.

An act to empower his majesty to secure and detain persons charged with, or suspected of the crime of high treason, committed in any of his majesty's colonies or plantations in America, or on the high seas, or the crime of piracy. 1777. 17 G. 3. C. 9.

No. 2.

(Copy) 16 G. III. C. 5. §. 4.

And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the said flag officers, captains and commanders respectively, to cause to be taken or put on board any of his majesty's ships or vessels of war, or on board any other ships or vessels, all and every the masters, crews and other persons, who shall be found on board such ship and ships as shall be seized and taken as prize as aforesaid, and also to enter the names of such of the said mariners and crews, upon the book or books of his majesty's said ships or vessels, as they the said flag officers, captains and commanders, shall respectively, think fit; from the time and times of which said entries respectively, the said mariners and crews shall be considered, and they are hereby declared to belong to, and be as much in the service of his majesty, to all intents and purposes, as if the said mariners and crews had entered themselves voluntarily to serve on board his majesty's said ships and vessels respectively, and also that it shall and may be lawful to and for the said flag officers, captains and commanders respectively, to detain, or cause to be detained and kept, the masters and other persons, and also such others of the mariners and crews of the said prize ships as shall not be entered upon the books of his majesty's ships or vessels of war as aforesaid, in and on board any ship or ships, vessel or vessels whatsoever, until the arrival of such last mentioned ships or vessels in some port in Great Britain or Ireland, or in any port of America, not in rebellion, and upon the arrival of those ships or vessels in any such port the commanders thereof are hereby respectively authorized and required immediately to set the said last mentioned mariners and crews, and also the said masters and other persons, at liberty on shore there.

No. 3.

New York, 19th March, 1783.

Sir,

By the Halifax packet, we have received a diſpatch, from Mr. Townſhend, one of his majeſty's principal ſecretaries of ſtate, dated the 31ſt of December, 1782, encloſing a treaty ſigned at Paris, on the 30th of November, which we are directed to tranſmit to congreſs. —Having been thrown, ſir, into the courſe of making all communications to congreſs through your excellency, we know not how, with more propriety, to make the communication required, than through the accuſtomed channel; we, therefore, encloſe in the preſent letter, this inſtrument, and are to requeſt of your excellency that you will, in the moſt ſpeedy manner, forward the ſame to congreſs.

We are, Sir, your Excellency's moſt
Obedient and moſt humble ſervants,

(Signed) GUY CARLETON,
ROBT. DIGBY.

His Excellency
Gen. Waſhington,

No. 4.

Extract of a Letter from Sir Guy Carleton to Robert R. Livingſton, Eſquire, dated New York, March 26th, 1783.

Sir,

I HAVE received your letter of the 24th inſtant, encloſing a reſolution of congreſs of the ſame date, taken in conſequence of the arrival of the cutter Triumphe, commanded by Lieutenant Duqueſne, with orders of the 10th of February laſt, given at Cadiz, by Vice-Admiral D'Eſtaing, for him to put to ſea, and cruiſe on ſuch ſtations as he ſhall judge moſt likely to meet with ſhips of his nation, and inform them of the happy reconciliation of the belligerent powers, and to order all their ſhips of war to ceaſe hoſtilities againſt thoſe of Great Britain, the preliminary articles of a general peace being ſigned the 20th of January: You thereupon are pleaſed to expreſs your expectation that I would think the information thus conveyed, "Sufficiently authentic to juſtify my taking immediate meaſures to ſtop the further effuſion of blood."

To adopt a meaſure of this importance, it is neceſſary I ſhould receive orders from home, which I may reaſonably expect every hour, as a cruiſer ſent out on other purpoſes, is already arrived at Philadelphia, and I aſſure you, ſir, I only wait the official certainty of this great event, to aſſume the language, and the ſpirit too, of the moſt perfect conciliation and peace.

No. 5.

Copy of a Letter from Admiral Digby to Robert R. Livingſton, Eſquire, New York, 27th, March, 1783.

SIR,

I HAVE received your letter, encloſing me the reſolve of congreſs, with a copy of a letter to his excellency Sir Guy Carleton, but as I have as yet received no official accounts from England, I muſt wait till you, on your ſide, relieve our priſoners, before I give that general relief to yours I ſo much wiſh. There can be no reaſon for detaining our priſoners one moment, as congreſs muſt ſuppoſe the peace ſigned. I ſhall take every precaution in my power, conſiſtent with my duty, to ſtop any further miſchief upon the ſeas, but ſhould recommend the preventing any veſſels ſailing, as I have not yet received ſufficient authority to enable me to withdraw my cruiſers.

I am, Sir,
Your very obedient humble ſervant,

ROBT. DIGBY.

No. 6.

Appendix

B. 10.	*Maryland.* Act compelling creditors to take the debtor's land at an appraiſed value. *Paſſed before the war.*
16.	*Rhode Iſland.* Paper money made a legal tender. *May, June,* 1775.
	Rhode Iſland. Act to confiſcate and ſequeſter eſtates and baniſh perſons of certain deſcriptions. *October,* 1775.
	Rhode Iſland. Paper money made a legal tender. *January, July, September,* 1776.
A. 4.	*Rhode Iſland.* Act to confiſcate, ſequeſter and baniſh, as before, in October, 1775. *February, March, May, June, July, Auguſt, October,* 1776.
10.	*New Jerſey.* Act to puniſh traitors and diſaffected perſons. *October* 4, 1776.
D. 16.	*Rhode Iſland.* Paper money made a legal tender. *February,* 1777.
A. 20.	*Virginia.* Act for ſequeſtering Britiſh property, enabling thoſe indebted to Britiſh ſubjects to pay off ſuch debts. *October,* 1777.
26.	*North Carolina.* Act for confiſcating the property of all ſuch perſons as are inimical to the United States. *November,* 1777.
D. 1.	*North Carolina.* Act for eſtabliſhing courts of law, and for regulating the proceedings therein, Sec. 101. *November,* 1777.

Appendix

A. 2. *Maſſachuſetts.* Act to prevent the return of certain perſons therein named, and others who had left that ſtate or either of the United States, and joined the enemies thereof, 1778.

4. *Rhode Iſland.* Act to confiſcate, ſequeſter and baniſh, as in October, 1775. *February, October,* 1778.

15. *Delaware.* Act declaring eſtates of certain perſons forfeited, and themſelves incapable of being elected to any office. *February* 5, 1778.

14. *Pennſylvania.* Act for the attainder of divers traitors, and for veſting their eſtates in the commonwealth, if they render not themſelves by a certain day. *March* 6, 1778.

11. *New Jerſey.* Act for taking charge of and leaſing the real eſtates, and for forfeiting perſonal eſtates, of certain fugitives and offenders. *April* 18, 1778.

1. *New Hampſhire.* Act to confiſcate eſtates of ſundry perſons therein named. *November* 28, 1778.

12. *New Jerſey.* Act for forfeiting to, and veſting in the ſtate, the real eſtates of certain fugitive offenders. *December* 11, 1778.

3. *Maſſachuſetts.* Act to confiſcate the eſtates of certain notorious conſpirators againſt the government and liberties of the inhabitants of the late province, now ſtate, of Maſſachuſetts Bay, 1779.

27. *North Carolina.* Act to carry into effect the act of November, 1777, for confiſcating, &c. *January,* 1779.

4. *Rhode Iſland.* Act to confiſcate, ſequeſter and baniſh, as in October, 1775. *February, May, Auguſt, September, October,* 1779.

21. *Virginia.* Act concerning eſcheats and forfeitures from Britiſh ſubjects, *May,* 1779.

22. *Virginia,* Act to amend the act concerning eſcheats, &c. *May,* 1779.

32. *Virginia.* Act for the removal of the ſeat of government. *May,* 1779.

6. *New York.* Act for the forfeiture and ſales of the eſtates of perſons who have adhered to the enemies of the ſtate. *October* 22, 1779.

23. *Virginia.* Act to amend the act concerning eſcheats and forfeitures. *October,* 1779.

E. 5. *Virginia.* Act for the protection and encouragement of the commerce of nations acknowledging the independence of the United States of America. *October,* 1779.

A. 7. *New York.* Act for the immediate ſale of part of the confiſcated eſtates. *March* 10, 1780.

8. *New York.* Act approving the act of congreſs, relative to the finances of the United States, and making proviſion for redeeming that ſtate's proportion of bills of credit. *June* 15, 1780.

Appendix

A. 4. *Rhode Iſland.* Act to confiſcate, ſequeſter and baniſh, as in October, 1775. *July, September, October*, 1780.

9. *New York.* Act to procure a ſum of ſpecie, for the purpoſe of redeeming the bills emitted, &c. *October* 7, 1780.

16. *Maryland.* Act for calling out of circulation the quota of the ſtate, of the bills of credit iſſued by congreſs. Sec. 11. *October*, 1780.

17. *Maryland.* Act to ſeize, confiſcate and appropriate all Britiſh property within the ſtate. *October*, 1780.

18. *Maryland.* Act to appoint commiſſioners to preſerve confiſcated Britiſh property. *October*, 1780.

19. *Maryland.* Act to procure a loan, and for the ſale of eſcheat lands, and the confiſcated Britiſh property therein mentioned. *October*, 1780.

4. *Rhode Iſland.* Act to confiſcate, ſequeſter and baniſh, as in October, 1775. *January, May*, 1781.

24. *Virginia.* Act to adjuſt and regulate pay and account, of officers of Virginia line. *November*, 1781.

D. 2. *Virginia.* Act for directing the mode of adjuſting and ſettling the payment of certain debts and contracts. *November*, 1781.

A. 28. C. 10. *South Carolina.* Act for diſpoſing of certain eſtates, and baniſhing certain perſons therein mentioned. *February* 26, 1782.

D. 6. *Maryland.* Act to prevent ſuits on certain debts, for a limited time. *April*, 1782.

A. 30. *Georgia.* Act for inflicting penalty on, and confiſcating the eſtates of, ſuch perſons as are therein declared guilty of treaſon, and for other purpoſes therein mentioned. *May* 4, 1782.

25. *Virginia.* Act for providing more effectual funds for redemption of certificates. *May*, 1782.

D. 3. *Virginia.* Act to repeal ſo much of a former act, as ſuſpends the iſſuing executions upon certain judgments until December, 1783. *May*, 1782.

A. 34. *Maryland.* Act for the benefit of the children of Major Andrew Leitch. *June* 15, 1782.

4. *Rhode Iſland.* Act to confiſcate, ſequeſter, and baniſh, as in October, 1775. *June, October, November*, 1782.

13. *New Jerſey.* Act ſupplemental to the act of October 4, 1776, to puniſh traitors and diſaffected perſons. *October* 3, 1782.

D. 4. *Virginia.* Act to amend an act, entitled, An act to repeal ſo much of a former act, as ſuſpends the iſſuing executions on certain judgments till December, 1783. *October*, 1782.

November 30, the proviſional articles between the United States and Great Britain, are ſigned at Paris. 1782.

January 20th, preliminary articles between France and Great Britain are ſigned at Paris, alſo epochs fixed for ceſſation. 1783.

C. 15. *Pennſylvania.* Act to attaint H. Gordon, unleſs he ſurrender himſelf before a given day (July 24, 1783.) and the ſeizure of his eſtates by the agent of forfeited eſtates confirmed. *January* 31, 1783.

17. *Georgia.* Act to point out the mode for the recovery of property unlawfully acquired under the Britiſh uſurpation, and withheld from the right owners, and for other purpoſes. *February* 17. 1783.

A. 4. *Rhode Iſland.* Act to confiſcate, ſequeſter and baniſh, as in October, 1775. *February, May, June, October.* 1783. [This of October, 1783, is the ſame probably as C. 14.]

March 15, the proviſional articles are in Oſwald's paper, Philadelphia. 1783.

29. *South Carolina.* To amend the act of February, 26, 1782. *March* 16, 1783.

C. 16. *New York.* Act for granting a more effectual relief in caſes of certain treſpaſſes. *March* 17, 1783.

18. *New York.* Act for ſuſpending the proſecutions therein mentioned. *March* 21, 1783.

No. 7.

(Copy) PARIS, *4th November*, 1782.

GENTLEMEN,

YOU may remember, that from the very firſt beginning of our negociation for ſettling a peace between Great Britain and America, I inſiſted that you ſhould poſitively ſtipulate for the reſtoration of the property of all thoſe perſons under the denomination of the Loyaliſts or Refugees, who have taken part with Great Britain in the preſent war; or if the property had been re-ſold, and paſſed into ſuch variety of hands as to render the reſtoration impracticable (which you aſſerted to be the caſe in many inſtances) you ſhould ſtipulate for a compenſation or indemnification to thoſe perſons adequate to their loſſes. To theſe propoſitions, you ſaid you could not accede. Mr. Strachey, ſince his arrival at Paris, has moſt ſtrenuouſly joined me in inſiſting upon the ſaid reſtitution, compenſation, or indemnification, and in laying before you every argument in favor of thoſe demands, founded upon national honor and upon the true principles of juſtice.

Theſe demands you muſt have underſtood to extend not only to all perſons of the above mentioned deſcription, who have fled to Europe, but likewiſe to all thoſe who may be now in any parts of North America, dwelling under the protection of his majeſty's arms, or otherwiſe.

We have alſo inſiſted upon a mutual ſtipulation for a general amneſty on both ſides, comprehending thereby an enlargement of all perſons, who, on account of offences committed, or ſuppoſed to be committed, ſince the commencement of hoſtilities, may be now in confinement, and for an immediate re-poſſeſſion of their properties, and peaceable enjoyment thereof, under the government of the United States. To this you have not hitherto given a particular or direct anſwer.

It is, however, incumbent upon me, as commiſſioner of the king of Great Britain, to repeat thoſe ſeveral demands, and, without going over thoſe arguments upon paper, we have ſo often urged in converſation, to preſs your immediate attention to theſe ſubjects, and to urge you to enter into proper ſtipulations for the reſtitution, compenſation, and amneſty above mentioned, before we proceed further in this negociation.

I have the honor to be, &c.

RICHARD OSWALD.

To J. Adams, B. Franklin, *and* J. Jay, *Eſquires, Commiſſioners from the Thirteen United States of America, for treating of Peace between the ſaid States and the King of Great Britain.*

No. 8

SIR, 1782.

IN anſwer to the letter you did us the honor to write on the 4th inſtant, we beg leave to repeat what we often ſaid in converſation, viz. that the reſtoration of ſuch of the eſtates of refugees as have been confiſcated, is impracticable, becauſe they were confiſcated by laws of particular ſtates, and in many inſtances have paſſed, by legal titles, through ſeveral hands. Beſides, ſir, as this is a matter evidently appertaining to the internal polity of the ſeparate ſtates, the congreſs, by the nature of our conſtitution, have no authority to interfere with it.

As to your demand of compenſation to thoſe perſons, we forbear enumerating our reaſons for thinking it ill-founded: In the moment of conciliatory overtures it would not be proper to call certain ſcenes into view, over which a variety of conſiderations ſhould induce both parties at preſent to draw a veil. Permit us, therefore, only to repeat, that we cannot ſtipulate for ſuch compenſation, unleſs on your part it be agreed to make retribution to our citizens for the heavy loſſes they have ſuſtained by the unneceſſary deſtruction of private property.

We have already agreed to an amneſty more extenſive than juſtice required, and full as extenſive as humanity could demand: We can, therefore, only repeat, that it cannot be extended farther. We ſhould be ſorry if the abſolute impoſſibility of our complying further with your propoſitions, ſhould induce Great Britain to continue the war for the ſake of thoſe who cauſed and prolonged it: but if that

ſhould be the caſe, we hope that the utmoſt latitude will not be again given to its rigours.

Whatever may be the iſſue of this negociation, be aſſured, ſir, that we ſhall always acknowledge the liberal, manly, and candid manner, in which you have conducted it, and that we ſhall remain with the warmeſt ſentiments of eſteem and regard,

Sir, yours, &c.

To Richard Oſwald, *Eſquire, his Britannic Majeſty's Commiſſioner, for treating of Peace with the Commiſſioners of the United States of America.*

JOHN ADAMS,
B. FRANKLIN,
JOHN JAY.

No. 9.

Extracts from Mr. Adams's Journal reſpecting Peace.

MONDAY, *November* 11, 1782.

Mr. Whitefoord, the ſecretary of Mr. Oſwald, came a ſecond time. We fell ſoon into politics. I told him the French miniſter at Philadelphia had made ſome repreſentations to congreſs in favor of a compenſation to the royaliſts, and the Count de Vergennes no longer than yeſterday ſaid much to me in their favor. The count probably knows, that we are inſtructed againſt it—that congreſs are inſtructed againſt it, or, rather, have not conſtitutional authority to do it—that we can only write about it to congreſs, and they to the ſtates, who may, and probably will, deliberate upon it eighteen months before they all decide, and then every one of them will determine againſt it.

FRIDAY, *November* 15, 1782.

Mr. Oſwald came to viſit me, and entered, with ſome freedom, into converſation.—He ſaid he had been reading Mr. Paine's anſwer to the Abby Raynal, and had found there an excellent argument in favor of the tories. Mr. Paine ſays that before the battle of Lexington, we were ſo blindly prejudiced in favor of the Engliſh, and ſo cloſely attached to them, that we went to war at any time and for any object, when they bid us. Now this being habitual to the Americans, it was excuſable in the tories to behave upon this occaſion, as all of us had ever done upon all others. He ſaid if he were a member of congreſs, he would ſhow a magnanimity upon this occaſion, and would ſay to the refugees, take your property—we ſcorn to make any uſe of it in building up our ſyſtem.

I replied, that we had no power, and congreſs had no power, and, therefore, we muſt conſider how it would be reaſoned upon in the ſeveral legiſlatures of the ſeparate ſtates, if, after being ſent by us to congreſs, and by them to the ſeveral ſtates, in the courſe of twelve or fifteen months it ſhould be there debated. You muſt carry on the war ſix or nine months certainly for this compenſation, and conſequently ſpend, in the proſecution of it, ſix or nine times the ſum neceſſary to make the compenſation—for I preſume this war coſts every month to Great Britain, a larger ſum than would be neceſſary to pay for the forfeited eſtates.

England means by inſiſting on our compenſating theſe worſt of enemies, to obtain from us a tacit acknowledgement of the right of the war, an implicit acknowledgement that the tories have been juſtifiable, or at leaſt excuſable, and that we, only by a fortunate coincidence of events, have carried a wicked rebellion into a complete revolution.

At the very time when Britain profeſſes to deſire peace, reconciliation, perpetual oblivion of all paſt unkindneſſes, can ſhe wiſh to ſend in among us, a number of perſons whoſe very countenances will bring freſh to our remembrance, the whole hiſtory of the riſe and progreſs of the war, and of all its atrocities? Can ſhe think it conciliatory, to oblige us to lay taxes upon thoſe whoſe habitations have been conſumed, to reward thoſe who have burned them? Upon thoſe, whoſe property has been ſtolen, to reward the thieves? Upon thoſe whoſe relations have been cruelly deſtroyed, to compenſate the murderers?

SUNDAY, *November* 17, 1782.

Mr. Vaughan came to me, yeſterday, and ſaid that Mr. Oſwald had that morning called upon Mr. Jay, and told him, if he had known as much the day before, as he had ſince learned, he would have written to go home. Mr. V. ſaid, Mr. Fitzherbert had received a letter from Lord Townſhend, that the compenſation would be inſiſted on. Mr. Oſwald wanted Mr. Jay to go to England—thought he could convince the miniſtry. Mr. Jay ſaid he muſt go with or without the knowledge and advice of the court, and in either caſe it would give riſe to jealouſies. He could not go. Mr. Vaughan ſaid he had determined to go, on account of the critical ſtate of his family, his wife being probably a bed, he ſhould be glad to converſe freely with me, and obtain from me all the lights and arguments againſt the tories, even the hiſtory of their worſt actions—that in caſe it ſhould be neceſſary to run them down, it might be done, or at leaſt expoſe them, for their true hiſtory was little known in England. I told him, I muſt be excuſed, it was a ſubject that I had never been deſirous of obtaining information upon; that I pitied thoſe people too much, to be willing to aggravate their ſorrows and ſufferings, even of thoſe who had deſerved the worſt. It might not be amiſs to reprint the letters of Bernard, Hutchinſon and Oliver, to ſhow the riſe—it might not be amiſs to read the hiſtory of Wyoming in the annual regiſter for 1778 or 9, to recollect the priſon ſhips, and the churches at New York where the garriſons of Fort Waſhington were ſtarved, in order to make them inliſt in refugee corps, it might not be amiſs to recollect the burning of cities, and the thefts of plate, negroes, and tobacco.

I entered into the ſame arguments with him that I had uſed with Mr. Oſwald, to ſhow that we could do nothing—congreſs nothing—the time it would take to conſult the ſtates, and the reaſons to believe, that all of them would at laſt decide againſt it. I ſhowed him that it would be a religious queſtion with ſome—a moral one with others, and a political one with more.—An economical one with very

few. I ſhowed him the ill effect which would be produced upon the American mind, by this meaſure—how much it would contribute to perpetuate alienation againſt England, and how French emiſſaries might, by means of theſe men, blow up the flames of animoſity and war. I ſhowed him how the whig intereſt and the oppoſition might avail themſelves of this ſubject in parliament, and how they might embarraſs the miniſter.

He went out to Paſſy for a paſſport, and in the evening called upon me again—he ſaid he found Doctor Franklin's ſentiments to be the ſame with Mr. Jay's and mine, and hoped he ſhould be able to convince Lord Shelburne—he was pretty confident it would work right—The miniſtry and nation were not informed upon the ſubject. Lord Shelburne had told him that no part of his office gave him ſo much pain as the levee he held for theſe people, and hearing their ſtories of their families and eſtates, their loſſes, ſufferings, and diſtreſſes. Mr. Vaughan ſaid he had picked up here a good deal of information about theſe people, from Mr. Allen and other Americans.

FRIDAY, *November* 29, 1782.

Met Mr. Fitzherbert, Mr. Oſwald, Mr. Franklin, Mr. Jay, Mr. Laurens, and Mr. Strachey, at Mr. Jay's hotel d'Orleans, and ſpent the whole day in diſcuſſions about the fiſhery and tories. I propoſed a new article concerning the fiſhery—it was diſcuſſed, and turned in every light. Mr. Fitzherbert ſaid, the argument is in your favor, I muſt confeſs, your reaſons appear to be good; but Oſwald's inſtructions were ſuch, that he did not ſee how he could agree with us. I replied to this—The time is not ſo preſſing upon us, but that we can wait till a courier goes to London with your repreſentations upon this ſubject, and others that remain between us, and I think the miniſters muſt be convinced.

Mr. Fitzherbert ſaid, to ſend again to London, and have all laid looſe before parliament, was ſo uncertain a meaſure, it was going to ſea again.

Upon this Doctor Franklin ſaid, that if another meſſenger was to be ſent to London, he ought to carry ſomething more reſpecting a compenſation to the ſufferers in America. He produced a paper from his pocket, in which he had drawn up a claim, and he ſaid the firſt principle of the treaty was equality and reciprocity.—Now they demanded of us payment of debts, and reſtitution or compenſation to the refugees. If a draper had ſold a piece of cloth to a man upon credit, and then ſent a ſervant to take it from him by force, and after bring his action for the debt, would any court of law or equity give him his demand without obliging him to reſtore the cloth. Then he ſtated the carrying off of goods from Boſton, Philadelphia, and the Carolinas, Georgia, Virginia, &c. and the burning of the towns, &c. and deſired that this might be ſent with the reſt.

Upon this I recounted the hiſtory of General Gage's agreement with the inhabitants of Boſton, that they ſhould remove with their effects, upon condition that they would ſurrender their arms: but as ſoon as the arms were ſecured, the goods were forbid to be carried

out, and were finally carried off in large quantities to Halifax. Doctor Franklin mentioned the case of Philadelphia, and the carrying off effects there—even his own library. Mr. Jay mentioned several other things, and Mr. Laurens added the plunders in Carolina of negroes, plate, &c.

After hearing all this, Mr. Fitzherbert, Mr. Oswald, and Mr. Strachey retired for some time, and returning, Mr. Fitzherbert said, that upon consulting together, and weighing every thing as maturely as possible, Mr. Strachey and himself had determined to advise Mr. Oswald to strike with us according to the terms we had proposed as our ultimatum respecting the fishery and the loyalists. Accordingly we all sat down and read over the whole treaty and corrected it, and agreed to meet to-morrow at Mr. Oswald's house, to sign and seal the treaties, which the secretaries were to copy fair in the mean time.

SATURDAY, *November 30th, St. Andrew's Day.*

We met first at Mr. Jay's, then at Mr. Oswald's, examined and compared the treaties. Mr. Strachey had left out the limitation of time, the twelve months, that the refugees were allowed to reside in America; in order to recover their estates if they could. Dr. Franklin said this was a surprise upon us. Mr. Jay said so too—we never had consented to leave it out, and they insisted upon putting it in, which was done. Then the treaties were signed, sealed, and delivered.

No. 10.

Extracts of Letters from Doctor Franklin, to the honorable Robert R. Livingston Esq. Secretary for Foreign Affairs.

PASSY, October 14th. 1782.

SOMETHING has been mentioned about the refugees and English debts, but not insisted on, as we declared at once that whatever confiscations had been made in America being in virtue of the laws of particular states, the congress had no authority to repeal those laws, and therefore could give us none to stipulate for such repeal.

PASSY, December 5th, 1782.

The British Minister struggled hard for two points, that the favors granted to the royalists should be extended and our fishery contracted. We silenced them on the first by threatening to produce an account of the mischiefs done by those people, and as to the second, when they told us they could not possibly agree to it, as we required it, and must refer it to the ministry in London, we produced a new article to be referred at the same time, with a note of facts in support of it, which you have No. 3. Apparently, it seemed, that to avoid the discussion of this, they suddenly changed their minds, dropped the design of recurring to London, and agreed to allow the fishery as demanded.

Extract of a Letter from Doctor Franklin to Richard Oswald, Esquire.

PASSY, November 26th, 1782.

SIR,

YOU may well remember, that in the beginning of our conferences, before the other commissioners arrived, on your mentioning to

me a retribution for the loyaliſts whoſe eſtates had been forfeited, I acquainted you that nothing of that kind could be ſtipulated by us, the confiſcation being made by virtue of laws of particular ſtates, which the congreſs had no power to contravene or diſpenſe with, and, therefore, could give us no ſuch authority in our commiſſion. And I gave it as my opinion and advice, honeſtly and cordially, that if a reconciliation was intended, no mention ſhould be made, in our negociations, of thoſe people; for they having done infinite miſchief to our properties, by wantonly burning and deſtroying farm-houſes, villages and towns, if compenſation for their loſſes were inſiſted on, we ſhould certainly exhibit againſt it an account of all the ravages they had committed, which would neceſſarily recall to view ſcenes of barbarity that muſt inflame inſtead of conciliating, and tend to perpetuate an enmity that we all profeſs a deſire of extinguiſhing. Underſtanding, however, from you, that this was a point your miniſtry had at heart, I wrote concerning it to congreſs, and I have lately received the following reſolution—viz.

"*By the* UNITED STATES *in* CONGRESS *aſſembled.*

SEPTEMBER 10, 1782.

"RESOLVED, That the ſecretary for foreign affairs be, and he is hereby directed to obtain, as ſpeedily as poſſible, authentic returns of the ſlaves and other property which have been carried off or deſtroyed in the courſe of the war, by the enemy, and to tranſmit the ſame to the miniſters plenipotentiary for negociating peace."

"RESOLVED, That, in the mean time, the ſecretary for foreign affairs inform the ſaid miniſters, that many thouſands of ſlaves and other property to a very great amount, have been carried off or deſtroyed by the enemy; and that, in the opinion of congreſs, the great loſs of property which the citizens of the United States have ſuſtained by the enemy, will be conſidered by the ſeveral ſtates, as an inſuperable bar to their making reſtitution, or indemnification to the former owners of property, which has been, or may be forfeited to, or confiſcated by, any of the ſtates."

In conſequence of theſe reſolutions, and the circular letters of the ſecretary, the aſſembly of Pennſylvania, then ſitting, paſſed the following act, viz.

"AN Act for procuring an eſtimate of the damages ſuſtained by the inhabitants of Pennſylvania, from the troops and adherents of the king of Great Britain, during the preſent war."

We have not yet had time to hear what has been done by the other aſſemblies, but I have no doubt that ſimilar acts will be made by all of them, and that the maſs of evidence produced by the execution of thoſe acts, not only of the enormities committed by thoſe people, under the direction of Britiſh generals, but of thoſe committed by the Britiſh troops themſelves, will form a record that muſt render the Britiſh name odious in America to the lateſt generations. In that authentic record will be found the burning of the fine towns of Charleſtown, near Boſton, of Falmouth, juſt before winter, when the ſick, the aged, the women and children were driven to ſeek ſhelter

where they could hardly find it. Of Norfolk, in the midſt of winter. Of New London, of Fairfield, of Eſopus, &c. &c. beſides near a hundred and fifty miles of well ſettled country laid waſte, every houſe and barn burnt, and many hundred of farmers, with their wives and children, butchered and ſcalped.

The preſent Britiſh miniſters when they reflect a little, will certainly be too equitable to ſuppoſe, that their nation has a right to make an *unjuſt* war (which they have always allowed this againſt us to be) and to do all ſorts of unneceſſary miſchief, unjuſtifiable by the practice of any civilized people, which thoſe they make war with, are to ſuffer without claiming any ſatisfaction, but that if Britons or their adherents, are in return deprived of any property, it is to be reſtored to them, or they are to be indemnified. The Britiſh troops can never excuſe their barbarities. They were unprovoked. The loyaliſts may ſay in excuſe of theirs, that they were exaſperated by the loſs of their eſtates, and it was revenge. They have then had their revenge. Is it right they ſhould have both?

Some of theſe people may have a merit with regard to Britain, thoſe who eſpouſed her cauſe from affection; theſe it may become you to reward. But there are many of them who were waverers, and were only determined to engage in it by ſome occaſional circumſtances or appearances; theſe have not much of either merit or demerit, and there are others who have abundance of demerit, reſpecting your country, having by their falſehoods and miſrepreſentations, brought on and encouraged the continuance of the war. Theſe inſtead of being recompenſed, ſhould be puniſhed.

It is uſual among Chriſtian people at war, to profeſs always a deſire of peace. But if the miniſters of one of the parties chooſe to inſiſt particularly on a certain article which they have known the others are not and cannot be empowered to agree to, what credit can they expect ſhould be given to ſuch profeſſions?

Your miniſters require that we ſhould receive again into our boſom, thoſe who have been our bittereſt enemies, and reſtore their properties who have deſtroyed ours; and this, while the wounds they have given us are ſtill bleeding. It is many years ſince your nation expelled the Stuarts and their adherents, and confiſcated their eſtates. Much of your reſentment againſt them may, by this time, be abated; yet if we ſhould propoſe it, and inſiſt on it as an article of our treaty with you, that that family ſhould be recalled and the forfeited eſtates of its friends reſtored, would you think us ſerious in our profeſſions of earneſtly deſiring peace?

I muſt repeat my opinion, that it is beſt for you to drop all mention of the refugees. We have propoſed, indeed, nothing but what we think beſt for you as well as ourſelves. But if you will have them mentioned, let it be in an article which may provide, that they ſhall exhibit accounts of their loſſes, to commiſſioners hereafter to be appointed, who ſhall examine the ſame together with the accounts now preparing in America, of the damage done by them, and ſtate the account, and that if a balance appears in their favor, it ſhall be paid

by us to you, and by you divided among them, as you ſhall think proper. And if the balance is found due to us, it ſhall be paid by you.

Give me leave, however, to adviſe you to prevent the neceſſity of ſo dreadful a diſcuſſion, by dropping the article, that we may write to America, and ſtop the enquiry.

I have the honor to be, &c.

B. FRANKLIN.

ARTICLE *5th (propoſed)*

It is agreed that his Britannic majeſty will earneſtly recommend it to his parliament to provide for and make compenſation to the merchants and ſhop keepers of Boſton, whoſe goods and merchandize were ſeized and taken out of the ſtores, ware houſes and ſhops, by order of General Gage, and others of his commanders or officers there: and alſo to the inhabitants of Philadelphia for the goods taken away by his army there, and to make compenſation alſo for the tobacco, rice, indigo, and negroes, &c. ſeized and carried off by his armies under Generals Arnold, Cornwallis, and others, from the ſtates of Virginia, North and South Carolina and Georgia: and alſo for all veſſels and cargoes belonging to the inhabitants of the ſaid United States, which were ſtopped, ſeized, or taken, either in the ports or on the ſeas, by his governors, or by his ſhips of war, before the declaration of war againſt the ſaid ſtates.

And it is further agreed that his Britannic majeſty will alſo earneſtly recommend it to his parliament to make compenſation for all the towns, villages and farms, burnt and deſtroyed by his troops or adherents in the ſaid United States.

FACTS.

There exiſted a free commerce, upon mutual faith, between Great Britain and America. The merchants of the former credited the merchants and planters of the latter with great quantities of goods, on the common expectation that the merchants having ſold the goods would make the accuſtomed remittances; that the planters would do the ſame by the labour of their negroes, and the produce of that labour, tobacco, rice, indigo, &c.

England, before the goods were ſold in America, ſends an armed force, ſeizes thoſe goods in the ſtores, ſome even in the ſhips that brought them, and carries them off: ſeizes alſo and carries off the tobacco, rice, and indigo, provided by the planters to make returns, and even the negroes, from whoſe labour they might hope to raiſe other produce for that purpoſe.

Britain now demands that the debts ſhall nevertheleſs be paid.

Will ſhe, can ſhe, juſtly refuſe making compenſation for ſuch ſeizures?

If a draper, who had ſold a piece of linen to a neighbour on credit, ſhould follow him, take the linen from him by force, and then ſend a bailiff to arreſt him for the debt, would any court of law or equity award the payment of the debt, without ordering reſtitution of the cloth?

Will not the debtors in America cry out that if this compenſation be not made, they were betrayed by the pretended credit, and are now doubly ruined:—firſt by the enemy, and then by the negociators at Paris; the goods and negroes ſold them being taken from them, with all they had beſides, and they are now to be obliged to pay for what they have been robbed of?

No. 11.

Extracts from Doctor Franklin's Journal of Negociations for Peace with Great Britain.

MR. OSWALD alſo gave me a copy of a paper of memorandums written by Lord Shelburne, viz.

That an eſtabliſhment for the loyaliſts muſt always be upon Mr. Oſwald's mind, as it is uppermoſt in Lord Shelburne's, beſides other ſteps in their favor, to influence the ſeveral ſtates to agree to a fair reſtoration or compenſation for whatever confiſcations have taken place.

As to the loyaliſts I repeated what I had ſaid to him when firſt here, that their eſtates had been confiſcated by the laws made in the particular ſtates, where the delinquents had reſided, and not by any law of congreſs, who, indeed, had no power either to make ſuch laws, or to repeal them, or to diſpenſe with them; and, therefore, could give no power to their commiſſioners to treat of a reſtoration for thoſe people: that it was an affair appertaining to each ſtate. That if there were juſtice in compenſating them, it muſt be due from England rather than from America; but in my opinion, England was not under any very great obligations to them, ſince it was by their miſrepreſentations and bad counſels that ſhe had been drawn into this miſerable war—and that if an account was to be brought againſt us for their loſſes, we ſhould more than balance it by an account of the ravages they had committed all along the coaſts of America. Mr. Oſwald agreed to the reaſonableneſs of all this, and ſaid he had before he came away, told the miniſters that he thought no recompenſe to thoſe people was to be expected from us.

No. 12.

Extract of a Letter from the Commiſſioners of the United States for negociating Peace with Great Britain, to the Preſident of Congreſs, dated

PASSY, 10th September, 1783.

PERMIT us to obſerve, that in our opinion, the recommendations of congreſs, promiſed in the 5th article, ſhould immediately be made in the terms of it and publiſhed; and that the ſtates ſhould be requeſted to take it into conſideration as ſoon as the evacuation by the enemy ſhould be completed. It is alſo much to be wiſhed, that the legiſlatures may not involve all the tories in baniſhment and ruin, but that ſuch diſcriminations may be made as to entitle the deciſions to the approbation of diſintereſted men, and diſpaſſionate poſterity.

No. 13.

VIRGINIA, *to wit*,

GENERAL assembly, begun and held at the public buildings in the city of Richmond, on Monday, the eighteenth day of October, in the year of our Lord one thouſand ſeven hundred and eighty-four.

An Act reſpecting future Confiſcations.

Whereas it is ſtipulated by the ſixth article of the treaty of peace between the United States and the king of Great Britain, that there ſhall be no future confiſcations made;

Be it enacted, That no future confiſcations ſhall be made, any law to the contrary notwithſtanding—Provided, that this act ſhall not extend to any ſuit depending in any court which commenced prior to the ratification of the treaty of peace.

(Signed) ARCHIBALD CARY, Speaker of the Senate.
JOHN TYLER, Speaker H. Dels.

Certified as a true copy from the enrolment.

JOHN BECKLEY, Clk. H. Dels.

(Copy.) No. 14.

By his Excellency Benjamin Harriſon, Eſquire, Governor of the Commonwealth of Virginia, A PROCLAMATION.

WHEREAS I have received information, that there are, in different parts of this commonwealth, combinations formed by a number of perſons, who, impelled by a turbulent ſpirit, have manifeſted a diſpoſition to treat with outrage ſome of thoſe who have returned to this ſtate under the ſanction of the definitive treaty of peace, and the acts of aſſembly paſſed in October laſt. And whereas ſuch a diſpoſition, unleſs early ſuppreſſed by the interpoſition of government, might grow into a dangerous evil, diſturb the quiet of the commonwealth, and involve a violation of the public faith and honor, ſo ſolemnly pledged for preſerving ſacred the articles of the treaty, as ſigned and ratified: To prevent, therefore, effectually, the dangerous conſequences to be apprehended from the licentiouſneſs of ſuch perſons, I have thought fit, by and with the advice of the council of ſtate, to iſſue this my proclamation, ſtrictly enjoining all magiſtrates and other civil officers to uſe their utmoſt vigilance in the preſervation of the peace. And particularly to extend the earlieſt protection to all thoſe who come within the deſcription of the ſaid acts of aſſembly, and have reaſon to apprehend danger from ſuch riotous perſons: And to ſecure to them the enjoyment of thoſe rights which they derive both from the treaty and acts of aſſembly aforeſaid: And that no perſon, or deſcription of perſons, may preſume hereafter, on the hope of eſcaping with impunity, to do any act which ſhall contravene the one, or oppoſe the other, I do farther declare, that government being reſolved inviolably to ſupport the public honor, and to enforce a pointed execution of the law, will not fail to take the moſt effectual meaſures for bringing to condign puniſhment all thoſe who, ſenſeleſs to the obligation of a ſolemn treaty, and unmindful of the dignity and

honor of their country, pledged for its ſupport, ſhall be hardy enough to offend herein.

Given under my hand and the ſeal of the commonwealth, in the council chamber at Richmond, this 26 day of July, in the year of our Lord, 1784, and of the commonwealth the ninth.

BENJAMIN HARRISON.

L. S.

Atteſt,

A. BLAIR, C. C.

A copy from the original proclamation in the office of the executive.

Atteſt, SAM. COLEMAN, A. C. C.

No. 15.

Extract of a Letter from George Read, jun. Attorney of the United States, for the Diſtrict of Delaware, to the Secretary of State, dated New Caſtle, on Delaware, November 4th, 1790.

FROM the reſult of all my enquiries on the ſubject of your letter, I am induced to believe that no proceedings of any kind have taken place within this ſtate, ſince the treaty of peace, tending in any manner to affect the perſons or property of Britiſh ſubjects or American refugees, in contravention to that treaty. Whatever property any Britiſh ſubject might have had within this ſtate, at or after the declaration of independence, the ſame hath been in no wiſe altered or diminiſhed by any act of the ſtate legiſlature, the confiſcations of property ſpecially declared by law extended only to citizens and ſubjects of the ſtate, and ſuch outſtanding debts which Britiſh ſubjects might have had within the ſtate, I have generally underſtood, have been ſettled by ſuch their debtors as had ability to pay, in a way ſatisfactory to the creditors, or their agents, and almoſt the only ſuits which have been brought were againſt perſons whoſe circumſtances were declining, or againſt the repreſentatives of deceaſed perſons, but in no inſtance, that hath come to my knowledge, hath the leaſt clamour or complaint been made, or raiſed, againſt any man of the law for commencing ſuch ſuits, or any diſtinction urged, during their pendency in the courts. As to the American refugees, I do not know that the property of any other of them than ſpecially named in the act of aſſembly of this ſtate, of the 26th of June, 1778, and tranſmitted with this, was ſeized upon and taken as forfeited, and ſeveral of thoſe perſons have returned ſince the peace, and reſided, without diſturbance, in the neighbourhood of their former dwellings, though no inſtances of any reſtitution of their property, within my knowledge. As to the ſtate, it derived no benefit from the ſales of their eſtates, they being made for continental paper; and the court of claims which was eſtabliſhed ſome time after, in favor of the creditors of ſuch whoſe property had been declared to be forfeited under the act aforeſaid, having allowed the debts of thoſe creditors in ſpecie to an amount exceeding the ſpecie value of the paper received for that property.

From every information I have heretofore had of alleged infractions of the treaty, I never underſtood the government in this ſtate,

or any executive department thereof, or the conduct of its citizens, with regard to British subjects or American refugees, were at any time included, and such I am told was the decided opinion of the legislature of this state. At the time of their passing the act of the 2d of February, 1788, herewith also transmitted, "for repealing all acts or parts of acts repugnant to the treaty of peace between the United States and his Britannic majesty, or any article thereof." As that act was framed by the late congress, in the terms in which it is expressed, and passed by our legislature, upon the special requisition of that body, which was made circular to all the states then in the union.

I have the honor to be, with great respect,
Sir, your most obedient, and
Very humble servant,
GEO. READ, jun.

The honorable
Thomas Jefferson, *Esq.*

No. 16.

IN COUNCIL.

PHILADELPHIA, Thursday, December 16th, 1790.

UPON the report of the committee to whom was referred the letter from the comptroller general of the 15th September last, informing council, that the following lots, "in the city of Philadelphia, forfeited to the commonwealth by the attainder of Harry "Gordon for high treason, viz. a corner lot on the south side of "Walnut-street and east side of Fourth-street from Delaware river, "being in front on Walnut-street, 16 1-2 feet, and in depth on "Fourth-street, 37 feet with the privilege of a three feet alley at the "south end of the lot, subject to a ground rent of 13 dollars and 3-8 "of a dollar annually, and considerable arrears. And one other lot "adjoining the above lot, bounded on the north by Walnut-street, "on the east by ground late of Robert Morris, Esquire, on the west "by Charles Moore's ground, and part by the above described lot "and alley, being 16 1-2 feet in front, and 47 feet 10 inches and "an half deep, more or less, subject to an annual rent charge of 5l. "0s. 3d. with arrearages thereof," remains unsold, and submitting it to council, whether it would not be proper, at this time, to direct the sale of the said lots.

Resolved, That the lots before described be exposed to public sale, according to law.

No. 17.

(Copy.) In Assembly, January 31st, 1784.

A MESSAGE from his excellency the governor to the legislature (transmitted to this house by the honorable the senate) was read, and is in the words following, to wit:

GENTLEMEN,

It is with pleasure I embrace the earliest opportunity of laying before you, a proclamation of the United States, in congress assembled,

under their ſeal, dated the fourteenth day of January inſtant, announcing the ratification of the definitive articles of peace and friendſhip between theſe ſtates and his Brittannic majeſty, and enjoining a due obſervance thereof.

I alſo ſubmit to your conſideration, the recommendation of the United States, in congreſs aſſembled, in conformity to the ſaid articles, contained in their reſolution of the ſaid fourteenth day of January inſtant.

GEO. CLINTON.

New York, January 30th, 1784.

The papers which accompanied the ſaid meſſage of his excellency the governor, were alſo read.

Ordered, That the ſaid meſſage of his excellency the governor, and the papers which accompanied the ſame, be committed to a committe of the whole houſe.

In Aſſembly, March 31ſt, 1784.

A copy of certain reſolutions of the honorable the ſenate, delivered by Mr. Schuyler, were read, and are in the words following, viz.

"RESOLVED (if the honorable the houſe of aſſembly concur herein) That it appears to this legiſlature, that in the progreſs of the late war, the adherents of the king of Great Britain, inſtead of being reſtrained to fair and mitigated hoſtilities which are only permitted by the laws of nations, have cruelly maſſacred, without regard to age or ſex, many of our citizens, and wantonly deſolated and laid waſte a very great part of this ſtate, by burning not only ſingle houſes and other buildings, in many parts of this ſtate, but even whole towns and villages, and deſtroying other property throughout a great extent of country, and in enterprizes which had nothing but vengeance for their object.

"And that, in conſequence of ſuch unwarrantable operations, great numbers of the citizens of this ſtate have, from affluent circumſtances, been reduced to poverty and diſtreſs.

"Reſolved, That it appears to this legiſlature, that divers of the inhabitants of this ſtate, have continued to adhere to the king of Great Britain, after theſe ſtates were declared free and independent, and perſevered in aiding the ſaid king, his fleets and armies, to ſubjugate theſe United States to bondage.

"Reſolved, That as on the one hand, the rules of juſtice do not require, ſo on the other, the public tranquillity will not permit, that ſuch adherents who have been attainted, ſhould be reſtored to the rights of citizenſhip.

"And that there can be no reaſon for reſtoring property which has been confiſcated or forfeited, the more eſpecially as no compenſation is offered on the part of the ſaid king and his adherents for the damages ſuſtained by this ſtate and its citizens, from the deſolation aforeſaid.

"Reſolved, therefore, That while this legiſlature entertain the higheſt ſenſe of national honor, of the ſanction of treaties, and of the deference which is due to the advice of the United States, in congreſs

aſſembled, they find it inconſiſtent with their duty to comply with the recommendation of the ſaid United States, on the ſubject matter of the fifth article of the definitive treaty of peace."

Reſolved, That this houſe do concur with the honorable the ſenate in the ſaid reſolutions.

Ordered, That Mr. Gordon and Mr. Lott, deliver a copy of the laſt preceding reſolution of concurrence to the honorable the ſenate.

State of New York, ſſ.

I certify that the foregoing are true extracts from the journals of the aſſembly, this 19th day of July, 1786.

ISAAC VAN VLECK,
for
JOHN M'KESSON, Clerk.
(Copy.)

No 18.

Copy of a Letter from his Excellency Samuel Huntington, Governor of Connecticut, to the Honorable John Jay, Secretary for Foreign Affairs.

COUNCIL CHAMBER, HARTFORD, June 12th, 1786.

SIR,

YOUR letter of the 3d ultimo, addreſſed to the governor of Connecticut, requeſting information whether and how far this ſtate has complied with the recommendation of congreſs, purſuant to the treaty of peace with Great Britain, hath been received.

In compliance with your requeſt, I have the ſatisfaction to inform, that the ſtatutes of this ſtate have all been reviſed ſince the peace, and all penal laws which ſubjected any perſon to proſecution by reaſon of any part he had taken during the war, were repealed, the whole code as reviſed, are tranſmitted to congreſs; by examining thoſe acts, you may obtain the beſt poſſible information on this article; there is nothing in them, we apprehend, inconſiſtent with the ſpirit and intent of the treaty.

This ſtate has never confiſcated any eſtate belonging to real Britiſh ſubjects, or had any law exiſting that would warrant ſuch confiſcation.

Where confiſcations had taken place againſt citizens of the United States, who reſided in diſtricts in the poſſeſſion of the Britiſh during the war, but had not borne arms, ſome of them on application have obtained a reſtitution of their eſtates: and we have no law now exiſting to prohibit any perſon from making the like application, or reſiding among us for that purpoſe.

The ſixth article of the treaty was immediately obſerved on receiving the ſame with the proclamation of congreſs; the courts of juſtice adopted it as a principle of law: No further proſecutions were inſtituted againſt any perſon who came within that article, and all ſuch proſecutions as were then pending, were diſcontinued, ſo far as my knowledge or information extends; and I am ſatisfied it was univerſally the caſe with reſpect to all perſons who could claim the benefit

of this article, I may add, in general terms, that the legiſlature of this ſtate, and executive courts, have religiouſly adhered to the treaty, and in no inſtance, as we conceive, contravened any article therein contained.

I have the honor to be,
With ſentiments of high eſteem,
Your moſt obedient humble ſervant,
SAM. HUNTINGTON.

Honorable John Jay, *Eſq.*

No. 19.

Extract of a Letter from William Channing, Eſquire, Attorney of the United States for Rhode Iſland Diſtrict, to the Honorable Thomas Jefferſon, Secretary of State.

NEWPORT, November 24th, A. D. 1790.

SIR,

THE letter you were pleaſed to honor me with, of the 12th of Auguſt, I received ſoon after the date; and have ſince attended to the objects it reſpected. The ſituation of the records of our ſtate made your commiſſion a buſineſs of ſome difficulty, and a part of it ſtill remains unexecuted. That part, however, is in a proſperous train.

Herewith are tranſmitted authenticated copies of all the acts of our legiſlature that affect either the debts or the perſons of Britiſh ſubjects, or American refugees. As to the proceedings of the judiciary of this ſtate upon theſe acts, I have to obſerve, that the one for confiſcating of the eſtates of the perſons therein deſcribed, was early carried into effect, with regard to thoſe who were contemplated by it, the American refugees; and their eſtates were confiſcated and ſold, and the proceeds, after the payment of the debts of the original proprietors, were paid into the treaſury of the ſtate.

This act was conſidered by our courts as annulled by the treaty of peace, and ſubſequent to the ratification thereof, no proceedings have been had thereon: Government, during the war, were poſſeſſed of the real eſtates belonging to Britiſh ſubjects, but on the application of the proprietors they have been ſince reſtored, and the rents and profits accounted for.

The act of baniſhment has not been formally repealed by the legiſlature, but I have not known any inſtance in which it has been enforced, although many perſons either named or deſcribed in the act, have ſince the war reſided, and ſome of them ſtill reſide among us.

The courts of this ſtate have been ever open alike to the Britiſh ſubject and the American citizen; and equally enabled either to recover his juſt debt, agreeable to contract, until the ſubſtituting and paper money acts were made. The firſt of theſe acts was repealed ſoon after the paſſing of it, but the other continued to operate until September, 1789. But previous to this, in September, 1787, from an idea that the making the paper money a tender, might be conſidered as an infraction of the treaty with Great Britain, the legiſlature paſſ-

ed the reſolution declaring the obligation of the treaty ſacred and inviolable.

I have the honor to be, with great reſpect,
Sir,
Your moſt obedient,
and moſt humble ſervant,
WILLM. CHANNING.

Honorable Thomas Jefferſon, *Eſq.*

No. 20.

Copy of a Letter from his Excellency John Collins, Governor of Rhode Iſland, to the Honorable John Jay, Secretary for Foreign Affairs.

NEWPORT, September 4th, 1786.

SIR,

YOUR firſt letter requeſting information of the meaſures of this ſtate, reſpecting the treaty of peace between the United States and Great Britain hath been by the legiſlature referred, and the report is not made.

However, be pleaſed to be informed, that upon the treaty, and the conſequent ratification of congreſs, being preſented to the general aſſembly, they immediately requeſted the governor to make known the contents thereof to all the citizens, by proclamation, under the authority of the ſtate, requiring a ſtrict compliance therewith; this was done.

All proſecutions againſt abſentees and others for the part they had taken in the war, that had not been finiſhed, were immediately nullified, and no farther confiſcations have taken place. All perſons reſiding under the protection of the treaty, and that have applied to the legiſlature for the reſtitution of property, or the rights of citizenſhip, denization, or even the capacity of proſecuting actions or ſuits at law, have been heard, and in moſt inſtances their requeſts have been granted. The laws from that moment have been and ſtill are open to Britiſh ſubjects, to recover their debts in the ſame manner as to citizens of the ſtate. In ſhort, the treaty, in all its abſolute parts, has been fully complied with, and to thoſe parts that are merely recommendatory, and depend upon the legiſlative diſcretion, the moſt candid attention hath been paid.

I have the honor of being,
Sir,
Your moſt obedient, humble ſervant,
JOHN COLLINS.

His Excellency John Jay, *Eſq.*

No. 21.

Extract of a Letter from Sir Guy Carleton, to his Excellency General Waſhington, dated New York, April 6, 1783.

SIR,

A PACKET from England, arrived in this port laſt night, by which I have diſpatches from Mr. Townſhend, one of his majeſty's

principal ſecretaries of ſtate, communicating official intelligence, that the preliminary articles of peace with France and Spain, were ſigned at Paris, on the 20th of January laſt; and that the ratifications have been ſince exchanged at the ſame place.

And I am further to inform your excellency, that an inſtrument of acceſſion to the ſuſpenſion of hoſtilities by the ſtates general of the United Provinces, having been received in England, a ceſſation of arms with thoſe ſtates, has been thereupon included in the proclamation.

No. 22.

CHAMBLY, Auguſt 3d, 1783.

SIR,

THE United States of America in congreſs having charged their commander in chief with making the neceſſary arrangements with the commanders in chief of the Britiſh armies, for receiving the poſts now occupied by the troops of his Britannic majeſty, and which are within the United States; for this object, as well as for others relative to the preliminary articles of peace, I am ordered by his excellency General Waſhington, to concert ſuch meaſures with your excellency, as ſhall be mutually agreeable.

Major North, my aid-de-camp, will inform your excellency, that I am on my route to Quebec, where I expect in three or four days, to aſſure you that I am,

Your excellency's moſt obedient humble ſervant,

STEUBEN.

His Excellency General Haldimand.

No. 23.

ST. JOHNS, 13th Auguſt, 1783.

SIR,

IN anſwer to the letter which I had the honor to receive from you yeſterday, deſiring a final anſwer, in writing, to the requiſitions which you have made in the name of the United States, I very readily comply with that deſire, though the ſenſe of my anſwer can be no more than a repetition of that which I have made to his excellency General Waſhington, delivered to you under a flying ſeal. I have, therefore, the honor to acquaint you, that however definitive the United States may conſider the proviſional treaty to be, the ſenſe I have of my duty, and the cuſtoms of war, will not permit me to conſider a ceſſation of hoſtilities in that light. The orders I have received, direct a diſcontinuance of every hoſtile act on my part, and an attention to defenſive meaſures only, I have moſt punctually obeyed them, and ſhall continue to do ſo, until I ſhall receive his majeſty's further commands. I have not a doubt of the wiſhes expreſſed in your letter, of the United States to eſtabliſh a perfect harmony with Great Britain, by making good every engagement on their part. You will at the ſame time allow me to expreſs an equal confidence, that every promiſe on the part of Great Britain, will, in due time, be fulfilled.

But it is not for me to anticipate on this occaſion. When the ratification of peace ſhall be announced to me, I beg you will be aſſured that it will afford me the higheſt pleaſure to execute every inſtruction I ſhall receive relative to it, with the utmoſt punctuality and diſpatch; until that event ſhall arrive, it is totally out of my power to permit you to proceed to the poſts in the upper country, or in fact to treat with you on the ſubject of your miſſion. Wiſhing you a ſafe and agreeable paſſage,

I have the honor to be, &c.
FRED. HALDIMAND.

Major-general Baron Steuben.

No. 24.

SARATOGA, 23d Auguſt, 1783.

SIR,

I HAVE the honor to inform your excellency, that I arrived here laſt night, and had my health permitted, ſhould have continued my journey, until I could have had the honor to inform your excellency in perſon, of the ſucceſs of my miſſion. Lieutenant-colonel Villefranche will preſent this; to him I beg leave to refer for ſuch obſervations relative to the ſituation of certain places, as I have been able to make during my tour.

I eſteem myſelf very unfortunate that I could not ſucceed in the buſineſs with which I was charged, and am only conſoled by the idea that your excellency will believe that every thing which was in my power to do, was done, to anſwer the wiſhes of your excellency and of congreſs.

I arrived at Chambly the 2d of Auguſt, from whence I ſent Major North to announce my arrival to General Haldimand; incloſed is a copy of my letter and his anſwer, which did not meet me till I had reached Dechambault.

According to General Haldimand's appointment we met at Sorel on the 8th, where I preſented your excellency's letter, and opened the buſineſs on which I was ſent.

To the firſt propoſition which I had in charge to make, General Haldimand replied, that he had not received any orders for making the leaſt arrangement for the evacuation of a ſingle poſt; that he had only received orders to ceaſe hoſtilities; thoſe he had ſtrictly complied with, not only by reſtraining the Britiſh troops, but alſo the ſavages from committing the leaſt hoſtile act; but that until he ſhould receive poſitive orders for that purpoſe, he would not evacuate an inch of ground.

No. 25.

Copy of a Letter from his Excellency Governor Clinton, to his Excellency General Haldimand, dated New York, March 19, 1784.

SIR,

I NOW do myſelf the honor to tranſmit to your excellency the copy of a proclamation of the United States of America in congreſs

assembled, announcing the ratification of the definitive treaty of peace, between these states, and his Britannic majesty, and enjoining a due observance thereof.

Having no doubt that your excellency will as soon as the season admits, withdraw the British garrisons under your command, from the places they now hold within the United States, agreeably to the 7th article of the treaty, it becomes a part of my duty to make the necessary provision for receiving the post of Niagara and the other posts within the limits of this state, and it is for that purpose, I have now to request that your excellency would give me every possible information of the time when those posts are to be delivered up.

Lieutenant-colonel Fish who will have the honor to deliver this dispatch, is entrusted to confer with your excellency, and to endeavour to make such arrangements for the transaction of this business as shall tend to promote mutual convenience, and that harmony which it is the interest of both parties, and doubtless their desire, to establish.

I have the honor to be, &c.

GEO. CLINTON.

His Excellency General Haldimand.

No. 26.

His Excellency General Haldimand's Answer to the foregoing Letter, dated Quebec, 10th May, 1794.

SIR,

SOME accident, which has befallen the packet or messenger, has hitherto prevented me from receiving from England, any notification of the definitive treaty: but as in consequence of orders which I received last summer, subsequent to the ratification of the preliminary articles, all hostilities ceased, no great inconveniencies have hitherto arisen from that misfortune. I only regret, that not having had the honor to receive orders and instructions, relative to withdrawing the garrisons from the upper countries, which are without the limits assigned to the province under my command, by the definitive treaty, I cannot, at present, enter into any arrangements with Lieutenant-colonel Fish, or give your excellency the information which you desire.

My duty and my inclination is, to pay cheerful and punctual obedience to the orders and instructions which I shall have the honor to receive; and your excellency may be assured, that upon every occasion, I will exert my utmost endeavours to promote harmony and mutual convenience between the subjects of both nations, as well as in my transactions with your excellency, or the United States of America.

I have the honor to be, &c.

FRED. HALDIMAND.

His Excellency Governor Clinton.

No. 27.

Copy of a Letter from Lieutenant-colonel Hull, to his Excellency General Haldimand, dated Quebec, 12th of July, 1784.

SIR,

I AM inſtructed to requeſt of your excellency, in behalf of the United States of America, the preciſe time when each of the poſts within their territories, now occupied by his Britannic majeſty's forces, will be delivered up agreeably to the definitive treaty of peace, and to propoſe, as a matter of mutual convenience, an exchange of certain cannon and ſtores now at the poſts to be evacuated, for cannon and ſtores to be delivered at Weſt Point, New York, or ſome other convenient place. With regard to the firſt point, as the ſeaſon of the year is already far advanced, and as much time will be required, in furniſhing the neceſſary ſupplies for the garriſons during the winter, it is an object of very great importance, and I muſt beg leave to be ſolicitous with your excellency to fix a very early period.

As the poſts of the above deſcription are numerous, and it being probable that it may not be convenient to withdraw the troops from the whole exactly at the ſame time, I wiſh your excellency to fix the preciſe period when each will be delivered up.

If your excellency approves the propoſal of exchanging the cannon and ſtores, it will be neceſſary to fix on ſome criterion of their goodneſs: I would, therefore, propoſe, that the particular negociation be referred to two artillery officers, one from each ſide, who ſhall perſonally inſpect the cannon and ſtores, and in caſe of not agreeing, call in a third perſon.

I have the honor to be, &c.

WM. HULL.

His Excellency General Haldimand.

No. 28. A.

His Excellency General Haldimand's Anſwer to the foregoing Letter, dated Quebec, 13th July, 1784.

SIR,

I HAVE had the honor of your letter of yeſterday, and have communicated to Major-general Knox, by the encloſed letter, the reaſons which put it out of my power to enter, for the preſent, into the conſideration of the matter mentioned in your letter.

I have the honor to be, &c.

FRED. HALDIMAND.

Lieutenant-colonel Hull.

No. 28. B.

Copy of a Letter from his Excellency General Haldimand, to Major-general Knox, dated Quebec, 13th July, 1784.

SIR,

I HAVE had the honor to receive your letter dated New York, 13th of laſt June, by Lieutenant-colonel Hull, acquainting me you was directed by congreſs, the ſovereign authority of the United

States, to write to me, in order to aſcertain the preciſe time when each of the poſts within the United States, now occupied by the troops of his Britannic majeſty, ſhall be delivered, agreeably to the definitive treaty of peace, and to propoſe, as a matter of mutual convenience, an exchange of certain cannon and ſtores, now at theſe poſts, for others to be delivered at Weſt Point, upon Hudſon's river, New York, or ſome other convenient place.

I have the honor to encloſe, for your information, copies of letters which paſſed between his excellency Governor Clinton and me, upon the firſt part of your propoſition. Though I am now informed, by his majeſty's miniſters, of the ratification of the definitve treaty of peace, I remain, in other reſpects, in the ſame ſituation I then was, not having received any orders to evacuate the poſts which are without the limits aſſigned, by the treaty of peace, to this province.

It is, therefore, impoſſible for me to aſcertain the time when the evacuation of theſe poſts ſhall commence. I can only aſſure your excellency, that I ſhall loſe no time in carrying into execution his majeſty's orders on that head, when I ſhall have the honor to receive them.

In the mean time, I have to acquaint you, that however deſirous I am to conſult mutual convenience, I am not at preſent empowered (and have reaſon to think I will not in future be empowered) to make the exchange of cannon and ſtores propoſed by you, and for which Lieutenant-colonel Hull was authorized to make the proper arrangements.

I have the honor be, &c.

FRED. HALDIMAND.

His Excellency Major-general Knox.

No. 29.

The UNITED STATES *in* CONGRESS *aſſembled.*

May 26th, 1783.

WHEREAS by the articles agreed upon on the 30th of November laſt, by and between the commiſſioners of the United States of America for making peace, and the commiſſioner on the part of his Britannic majeſty, it is ſtipulated that his Britannic majeſty ſhall, with all convenient ſpeed, and without cauſing any deſtruction, or carrying away any negroes, or other property of the American inhabitants, withdraw all his armies, garriſons, and fleets, from the ſaid United States, and from every port, place and harbour, within the ſame; and whereas a conſiderable number of negroes belonging to the citizens of theſe ſtates, have been carried off therefrom, contrary to the true intent and meaning of the ſaid articles:

Reſolved, That copies of the letters between the commander in chief and Sir Guy Carleton, and other papers on this ſubject, be tranſmitted to the miniſters plenipotentiary of theſe ſtates for negociating a peace in Europe; and that they be directed to remonſtrate thereon to the court of Great Britain, and take proper meaſures for obtaining ſuch reparation as the nature of the caſe will admit.

Ordered, That a copy of the foregoing reſolve be tranſmitted to the commander in chief; and that he be directed to continue his remonſtrances to Sir Guy Carleton, reſpecting the permitting negroes belonging to the citizens of theſe ſtates to leave New York, and to inſiſt on the diſcontinuance of that meaſure.

No. 30.

VIRGINIA, *to wit*,

In General Aſſembly, the 22d of June, 1784.

IT appearing to the general aſſembly, from a letter from his excellency General Waſhington, dated the ſeventh day of May, 1783, that in obedience to a reſolution of congreſs, he had a conference with General Carleton, on the ſubject of delivering up the ſlaves and other property belonging to the citizens of the United States, in compliance with the articles of the proviſional treaty; that he (General Carleton) appeared to evade a compliance with the ſaid treaty, by a miſconſtruction of the ſame, and permitted a large number of the ſaid ſlaves to be ſent off to Nova Scotia. It further appearing to the general aſſembly, from the teſtimony of Thomas Walke, Eſquire, that he, together with ſeveral other perſons from the counties of Norfolk and Princeſs Anne, in or about the month of April, 1783, went to New York, with a view of recovering the ſlaves which had been taken from them by the Britiſh troops during the war; that not being permitted to take poſſeſſion of thoſe ſlaves which they found in that city, the ſaid Walke made a perſonal application to General Carleton, and requeſted a delivery of the ſaid ſlaves, in compliance with the ſeventh article of the treaty, which prohibits the carrying off negroes, or other property, belonging to the inhabitants of the United States; this he peremptorily refuſed, alleging that he was not authorized to do it, without particular inſtructions from the Britiſh government; that at the time of this application the ſaid Walke was informed by an aid-de-camp of General Carleton, that an agent was appointed to ſuperintend the embarkation, and keep a regiſter of ſlaves ſent to Nova Scotia, and that he afterwards ſaw the ſaid regiſter, and alſo ſaw a large number of negroes embarked to be ſent to that country. It farther appearing to the general aſſembly, from the teſtimony of Mr. John Stewart, of the ſtate of Maryland, as well as from a variety of other circumſtances, that many applications were made to General Carleton by citizens of America for the reſtitution of property, which were invariably rejected:

Reſolved, That there has been an infraction, on the part of Great Britain, of the ſeventh article of the treaty of peace between the United States of America and Great Britain, in detaining the ſlaves and other property of the citizens of the United States.

Reſolved, That the delegates repreſenting this ſtate in congreſs be inſtructed to lay before that body the ſubject matter of the preceding information and reſolution, and to requeſt from them a remonſtrance to the Britiſh court, complaining of the aforeſaid infraction of the treaty of peace and deſiring a proper reparation of the injuries conſe-

quent thereupon; that the said delegates be instructed to inform congress that the general assembly has no inclination to interfere with the power of making treaties with foreign nations, which the confederation hath wisely vested in congress; but it is conceived that a just regard to the national honor and interest of the citizens of this commonwealth obliges the assembly to withhold their co-operation in the complete fulfilment of the said treaty, until the success of the aforementioned remonstrance is known, or congress shall signify their sentiments touching the premises.

Resolved, That so soon as reparation is made for the aforesaid infraction, or congress shall judge it indispensably necessary, such acts of the legislature passed during the late war, as inhibit the recovery of British debts, ought to be repealed, and payment thereof made in such time and manner as shall consist with the exhausted situation of this commonwealth.

Extract from the journal of assembly,

JOHN BECKLEY, Clk. H. D.

No. 31.

Circular Letter to the Governors of the several States.

OFFICE FOR FOREIGN AFFAIRS, 3d May, 1786.

SIR,

CONGRESS has been pleased to order, that I should "report particularly and specially how far the several states have complied with the proclamation of congress, of the 14th of January, 1784, and the recommendation accompanying the same, pursuant to the definitive treaty of peace between the United States of America and Great Britain."

In order that I may be able to fulfil the expectations of congress, I must request the favor of your excellency, to inform me whether and how far the state (or commonwealth) of has complied with the recommendation in question.

I have the honor to be, &c.

JOHN JAY.

No. 32.

STATE *of* NEW HAMPSHIRE,

In the Year of our Lord, one Thousand Seven Hundred and Eighty-six.

An Act in Compliance with the Treaty of Peace, between the United States and his Britannic Majesty, and with the Recommendation of Congress, of the 14th of January, 1784, founded thereon.

L. S.

WHEREAS several acts and laws, during the late war with Great Britain, were passed by this state, which are found to be incompatible with the definitive treaty of peace and friendship. And whereas congress did, on the 14th day of January, 1784, earnestly recom-

mend to the legiſlatures of the reſpective ſtates, to re-conſider and reviſe all their acts and laws reſpecting the premiſes, ſo as to render ſuch acts and laws perfectly conſiſtent, not only with juſtice and equity, but with that ſpirit of conciliation, which, on the return of the bleſſings of peace, ſhould univerſally prevail.

Therefore—Be it enacted by the ſenate and houſe of repreſentatives in general court convened, That the fourth article of the ſaid definitive treaty, viz. It is agreed that the creditors, on either ſide, ſhall meet with no lawful impediment to the recovery of the full value, in ſterling money, of all bona fide debts heretofore contracted, be complied with, as far as it reſpects this ſtate; and that the ſubjects of his Britannic majeſty, ſhall meet with no lawful impediment to the recovery of any ſuch debts, but ſhall have a right to recover the ſame, in the manner and way ſolemnly ſtipulated in ſaid article.

And be it further enacted, That in caſe any of the eſtates, rights and properties of any real Britiſh ſubjects, or any of the eſtates, rights and properties of any perſon or perſons reſident in any diſtrict or diſtricts which were in the poſſeſſion of his Britannic majeſty's arms, between the 30th day of November, 1782, and the 14th day of January, 1784, and who have not borne arms againſt the United States, ſhall have been confiſcated, the act or acts ſo confiſcating, ſhall be, and hereby are repealed; and perſons of any other deſcription, ſhall have free liberty to go to any part or parts of this ſtate (provided, that within fourteen days after their firſt arrival, they lodge their names in the ſecretary's office) and to reſide in any town, place or diſtrict herein, during the ſpace of one year, to commence from the day of their firſt arrival in this ſtate, and no longer; and to remain unmoleſted in their endeavours to obtain the reſtitution of ſuch of their eſtates, rights and properties, as have been confiſcated.

And be it further enacted by the authority aforeſaid, that the act of this ſtate, paſſed the 19th day of November, 1778, entitled, "An act to prevent the return to this ſtate, of certain perſons, therein named, and of others who have left or ſhall leave this ſtate or either of the United States of America, and have joined or ſhall join the enemies thereof," ſo far as the ſame militates with the ſaid articles of peace: Alſo the act paſſed the 28th day of November, 1778, entitled, "An act to confiſcate the eſtates of ſundry perſons therein named," together with the additional acts to the ſaid two acts, and all other acts and reſolves of this ſtate, ſo far as they militate with, or are repugnant to, the ſpirit and meaning of ſaid treaty of peace and friendſhip between the United States and his Britannic majeſty, ſhall be and hereby are repealed and made void.

STATE *of* NEW HAMPSHIRE.

In the Houſe of Repreſentatives, September 15*th*, 1786.

THE foregoing bill having been read a third time, voted that it paſs to be enacted. Sent up for concurrence,

JOHN LANGDON, Speaker.

In Senate, the 15th of September, 1786.

THIS bill having been read a third time, voted that the same be enacted.

JNº. SULLIVAN, President.

Copy examined, per

JOSEPH PEARSON, Secretary.

No. 33.

COMMONWEALTH *of* MASSACHUSETTS.

In the Year of our Lord, One Thousand Seven Hundred and Eighty-seven.

An act for repealing any acts or parts of acts, heretofore passed by the legislature of this commonwealth, which may militate with, or infringe, the treaty of peace entered into by the United States of America and Great Britain.

Whereas certain laws or statutes, made and passed in some of the United States, are regarded and complained of, as repugnant to the treaty of peace with Great Britain, by reason whereof not only the good faith of the United States, pledged by that treaty, has been drawn into question, but their essential interests under that treaty greatly affected.

And whereas, justice to Great Britain as well as regard to the honor and interests of the United States, require, that the said treaty be faithfully executed, and that all obstacles thereto, and particularly such as do, or may be construed to proceed from the laws of this commonwealth, be effectually removed, therefore,

Be it enacted by the senate and house of representatives in general court assembled, and by the authority of the same, That such of the acts or parts of acts of the legislature of this commonwealth, as may be repugnant to the treaty of peace between the United States and his Britannic majesty, or any article thereof, and so far as they may be repugnant thereto, shall be and hereby are repealed; and further, that the courts of law and equity within this commonwealth be, and they hereby are directed and required, in all causes and questions cognizable by them respectively, and arising from or touching the said treaty, to decide and adjudge according to the tenor, true intent and meaning of the same, any thing in the said acts or parts of acts, to the contrary thereof, in anywise, notwithstanding.

In the House of Representatives, 30*th April*, 1787.

This bill having had three several readings, passed to be enacted.

ARTEMAS WARD, Spkr.

In Senate, April 30*th*, 1787.

This bill having had two several readings, passed to be enacted.

SAMUEL PHILLIPS, jur. Presidt.

By the governor approved.

JAMES BOWDOIN.

A true copy. Attest,

JOHN AVERY, jur. Secry.

No. 34.

STATE *of* RHODE ISLAND, *and* PROVIDENCE PLANTATIONS.

In General Assembly, September Session, A. D. 1787.

Be it enacted by the general assembly, and by the authority thereof it is hereby enacted, That the treaty of peace entered into between the United States of America and his Britannic majesty, is fully binding upon all the citizens of this state as a law of the land, and is not, in any respect, to be receded from, misconstrued, or violated.

A true copy, witness,

HY. SHERBURNE, Deputy-Secretary.

No. 35.

(L. S.) *At a General Assembly of the State of Connecticut, holden at Hartford, on the second Thursday of May, A. D.* 1787.

WHEREAS the United States, in congress assembled, have, by their resolution of the 13th of April, 1787, recommended to the several states to repeal all such acts and parts of acts of their several legislatures, as may be now existing in any of the said states, repugnant to the treaty of peace between the United States and Great Britain, and that each state pass such act of repeal, whether any such exceptional act is existing in such state or not, and that rather by describing than reciting such act, for the purpose of obviating all disputes and questions between the United States and Great Britain relative to said treaty; and although there hath been no complaint or suggestion, officially or otherwise, that there is any act or part of an act existing in this state repugnant to said treaty, yet this assembly, being at all times disposed to conform to the true intent and spirit of the articles of confederation, and to prevent and remove (so far as to this assembly doth appertain) all causes of dispute and contention, and every just ground of complaint, have thought fit to enact, and

Be it enacted by the governor, council, and representatives, in general court assembled, and by the authority of the same, That such of the acts, or parts of acts of the legislature of this state, as are repugnant to the treaty of peace between the United States and his Britannic majesty, or any article thereof, shall be, and hereby are, repealed.

And be it further enacted by the authority aforesaid, That the courts of law and equity within this state be, and they hereby are directed and required, in all causes and questions cognizable by them respectively, and arising from or touching said treaty, to decide and adjudge according to the tenor, true intent and meaning of the same; any thing in the said acts, or part of acts, to the contrary thereof, in anywise, notwithstanding.

A true copy of record, examined by

GEORGE WYLLYS, Secretary.

No. 36.

Copy from the ſecond Volume of the Laws of the State of New York, publiſhed according to an Act of the Legiſlature.

An Act in the form of the act recommended by the reſolution of the United States in congreſs aſſembled, of the twenty-firſt day of March, one thouſand ſeven hundred and eighty-ſeven, to be paſſed by the ſeveral ſtates, relative to the treaty of peace between the United States and the king of Great Britain.

Paſſed 22d February, 1788.

WHEREAS certain laws and ſtatutes, made and paſſed in ſome of the United States, are regarded and complained of as repugnant to the treaty of peace with Great Britain, by reaſon whereof not only the good faith of the United States, pledged by that treaty, has been drawn into queſtion, but their eſſential intereſts, under that treaty, greatly affected. And whereas juſtice to Great Britain, as well as regard to the honor and intereſts of the United States, require, that the ſaid treaty be faithfully executed, and that all obſtacles thereto, and particularly ſuch as do, or may be conſtrued to proceed from the laws of this ſtate, be effectually removed: Therefore,

Be it enacted, by the people of the ſtate of New York, repreſented in ſenate and aſſembly, and it is hereby enacted by the authority of the ſame, That ſuch of the acts and parts of acts of the legiſlature of this ſtate, as are repugnant to the treaty of peace between the United States and his Britannic majeſty, or any article thereof, ſhall be and hereby are repealed. And further, that the courts of law and equity, within this ſtate, be and they hereby are directed and required, in all cauſes and queſtions, cognizable by them reſpectively, and ariſing from, or touching, the ſaid treaty, to decide and adjudge according to the tenor, true intent, and meaning of the ſame; any thing in the ſaid acts, or parts of acts, to the contrary thereof, in anywiſe, notwithſtanding.

No. 37.

In the twelfth Year of the Independence of the Delaware State. At a Seſſion of the General Aſſembly, commenced at Dover, on the 20th Day of October, 1787, and continued, by adjournment, to the 2d Day of February following, incluſive, the following Acts were paſſed, that is to ſay:

An act for repealing all acts, or parts of acts, repugnant to the treaty of peace between the United States and his Britannic majeſty, or any article thereof.

WHEREAS certain laws or ſtatutes, made and paſſed in ſome of the United States, are regarded and complained of, as repugnant to the treaty of peace with Great Britain; by reaſon whereof, not only the good faith of the United States, pledged by that treaty, has been drawn into queſtion, but their eſſential intereſts, under that treaty, greatly affected.

And whereas juſtice to Great Britain, as well as regard to the honor and intereſts of the United States, require, that the ſaid treaty

be faithfully executed, and that all obſtacles thereto, and particularly ſuch as do or may be conſtrued to proceed from the laws of this ſtate, be effectually removed: Therefore,

Be it enacted, by the general aſſembly of Delaware, and it is hereby enacted by the authority of the ſame, That ſuch of the acts, or parts of acts, of the legiſlature of this ſtate, as are repugnant to the treaty of peace between the United States and his Britannic majeſty, or any article thereof, ſhall be and hereby are repealed.

And further, That the courts of law and equity, within this ſtate, be and they hereby are directed and required, in all cauſes and queſtions, cognizable by them reſpectively, and ariſing from, or touching the ſaid treaty, to decide and adjudge according to the tenor, true intent, and meaning of the ſame; any thing in the ſaid acts, or parts of acts, to the contrary thereof, in anywiſe, notwithſtanding.

Signed, by order of the houſe of aſſembly,
JEHU DAVIS, Speaker.

Signed, by order of the council,
THOMAS M'DONOUGH, Speaker.

Paſſed at Dover, February 2d, 1788.

No. 38.

An Act declaring the Treaty of Peace between the United States and his Britannic Majeſty, the Supreme Law within this State.

BE it enacted by the general aſſembly of Maryland, and it is hereby declared, That the treaty of peace made between the United States of America, and his Britannic majeſty, is the ſupreme law within this ſtate, and ſhall be ſo conſidered and adjudged in all courts of law and equity, and all cauſes and queſtions cognizable by the ſaid courts reſpectively, ought, and ſhall be determined according to the ſaid treaty, and the tenor, true intent and meaning thereof.

By the Senate, May 14th, 1787. Read and aſſented to,
By order, J. DORSEY, Clerk.

By the Houſe of Delegates, May 15th, 1787.
Read and aſſented to.
By order, WM. HARWOOD, Clerk.

W. SMALLWOOD.
(*The great Seal, in wax appendant.*)

In Teſtimony, that the aforegoing is a true Copy from the original Act of the General Aſſembly of Maryland, remaining in the General Court, I have hereto ſet my Hand, and affixed the Seal of Office, this 29th Day of June, in the Year of our Lord, 1787.

(L. S.) THOS. B. HODGKIN, *Clerk G. Ct. W. Shore.*

No. 39.

Copy of an Act of the General Assembly of Virginia, passed December 12, 1787.

An Act to repeal so much of all and every Act or Acts of Assembly, as prohibits the recovery of British Debts.

WHEREAS it is stipulated by the fourth article of the treaty of peace between the king of Great Britain and the United States of America, in congress assembled, that creditors on either side shall meet with no lawful impediment in the recovery of the full value, in sterling money, of all bona fide debts heretofore contracted. Be it therefore enacted by the general assembly, That such of the acts or parts of acts, of the legislature of this commonwealth, as have prevented, or may prevent the recovery of debts due to British subjects, according to the true intent and meaning of the said treaty of peace shall be, and are hereby repealed.

Provided, That this act shall be suspended, until the governor, with the advice of council, shall by his proclamation notify to this state, that Great Britain hath delivered up to the United States, the posts therein now occupied by British troops, which posts were stipulated by treaty to be given up to congress immediately after the conclusion of peace; and is also taking measures for the further fulfilment of the said treaty, by delivering up the negroes belonging to the citizens of this state, taken away contrary to the seventh article of the treaty, or by making such compensation for them, as shall be satisfactory to congress.

No. 40.

An Act declaring the Treaty of Peace between the United States of America and the King of Great Britain, to be Part of the Law of the Land.

BE it enacted by the general assembly of the state of North Carolina, and it is hereby enacted by the authority of the same, That the articles of the definitive treaty between the United States of America and the king of Great Britain, are hereby declared to be part of the law of the land.

And be it further enacted by the authority aforesaid, That the courts of law and equity, are hereby directed in all causes and questions, cognizable by them, respecting the said treaty, to judge accordingly.

Read three times, and ratified in general assembly, the 22d day of December, 1787.

ALEX. MARTIN, S. S.
JNº. SITGREAVES, S. C.

No. 41.

Copy of a Letter from his Excellency William Livingston, Governor of New Jersey, to the Honorable John Jay, Secretary for Foreign Affairs.

ELIZABETH TOWN, 15th June, 1786.

SIR,

I HAVE been honored with your letter of the 3d of May, informing me, that congress has been pleased to order, that you should "report particularly and specially, how far the several states have complied with the proclamation of congress, of the 14th January, 1784, and the recommendation accompanying the same, pursuant to the definitive treaty of peace between the United States of America and Great Britain;" and requesting me to inform you, "whether, and how far, the state of New Jersey has complied with the recommendation in question." In answer to which, I can only inform you, in general, that I do not know of a single instance, in which this state has not strictly complied with the said proclamation, as well as with the said recommendation, as far, as, by the said treaty, the United States were bound to comply with such recommendation.

I have the honor to be, &c.

WIL. LIVINGSTON.

The Honorable John Jay, *Esq.*

No. 42.

Extract of a Letter from Richard Stockton, Esquire, Attorney of the United States for New Jersey District, to the Honorable Thomas Jefferson, Secretary of State, dated 11th December, 1790.

I AM happy in being able to inform you, that no laws have been enacted in New Jersey, contravening the treaty of peace.

The only judiciary decision, affecting the rights of British subjects, in the state courts, was the opinion of a single judge (without the point coming solemnly before the court, upon argument) delivered in a charge to a jury; by which he directed the jury to make a deduction of interest upon an old bond, during the period of the late war.

How far this may be said to infringe the rights of British subjects, you will judge.

I have the honor to be, &c.

RD. STOCKTON, Atty. of the New Jersey District.

His Excellency Thomas Jefferson.

No. 43.

IN GENERAL ASSEMBLY.

MONDAY, *March 3d*, 1788, P. M.

THE report of the committee, on that part of the message from council, which respects the resolution of congress, of the 21st of March, last, read March 1st, was read the second time; Whereupon,

Resolved, That his excellency the president, and the honorable the supreme executive council, be informed, that this house having, by their committee, carefully examined into the subject matter of that part of the said message, which recommends to the notice of this house, the resolution of congress, passed March 21st, 1787, and suggests the propriety of passing a declaratory act, to answer the end intended by the said resolution; they cannot find, that there is any act or acts, or any part or parts of any act or acts, passed by the legislature of Pennsylvania, now in force, which are repugnant to the treaty of peace between the United States and his Britannic majesty, or to any articles thereof, or that at all tend to restrain, limit, or in any manner impede, retard, or counteract, the operation and execution thereof, or to explain the same.

No. 44.

Copy of a Letter from his Excellency William Moultrie, Governor of South Carolina, to the Honorable John Jay, Secretary for Foreign Affairs.

CHARLESTON, SOUTH CAROLINA, 21st June, 1786.

SIR,

I HAVE been honored with your favor of 3d May, requesting to know, for the information of congress, how far this state has complied with the proclamation and recommendation of congress, of the 14th January, 1784.

The subjects of Great Britain have encountered no other difficulties or impediments than have the citizens of America, in the recovery of their debts; such was the situation of the state, that the legislature conceived it necessary to pass laws tantamount to the shutting the courts; and in this case, even British subjects, who had property among us were saved from ruin equally to those of America.

Agreeably to the 5th article of the treaty, which congress earnestly recommended, this state, upon serious consideration, very liberally complied with that recommendation, and restored most of the estates that were under confiscation: the property carried off by the British, and belonging to the citizens of the state, far exceeded in value the property which, by our laws, has been confiscated and sold: and no subsequent act of confiscation has taken place to the above recommendation of congress.

This state passed an act, February 26th, 1782, to prevent the recovery of debts: and this being done prior to the treaty of peace, and since continued, from time to time, in force, could not possibly have in view to distress the British subjects.

The treaty of peace also required twelve months to be allowed banished persons, and others attached to British government, to settle their affairs. This state has generously added three months more to the twelve; and in some instances, upon application, it has been further extended by the executive.

I have the honor to be, &c.

WILLM. MOULTRIE.

Honorable John Jay, *Esq.*

No. 45.

Extract of a Letter from Richard Harriſon, Eſq. Attorney of the United States for the Diſtrict of New York, to the Secretary of State, dated New York, December 4th, 1790.

THE act relative to debts due to perſons within the enemy's lines, appears to have been paſſed even before the proviſional articles were concluded between Great Britain and the United States. It cannot therefore be conſidered as an infraction of a treaty not exiſting until ſeveral months after, which at moſt could only be contemplated as probable, and was perhaps conſidered as barely poſſible.

Whatever, therefore, might be the nature or tendency of this act, its origin was not exceptionable, as interfering with any national compact. The act, beſides a temporary reſtraint upon commencing any ſuits by perſons who had been with the enemy (which was removed ſoon after the peace) ſubjected ſuch perſons to the loſs of intereſt upon their debts from 1ſt January, 1776, made them liable to any farther abatement, even of the principal, which referrees might think proper, and obliged them to receive the balance in public ſecurities.

The operation of this act became, ſoon after the peace, a ſubject of much complaint, grounded upon that article of the treaty which forbids any impediment to the recovery of the full value in ſterling money of all bona fide debts, and that which declares that no perſon ſhall ſuffer any future loſs in his perſon, liberty, or property.

With regard to Britiſh creditors, who were ſuppoſed to be the proper objects of the 4th article of the treaty, the ſuperior courts of the ſtate ſoon reſtrained the operation of the act, and I do not know a ſingle inſtance where they have been held to be affected by it.

No. 46.

The following are the material Facts in relation to the Caſe of Rutgers againſt Waddington, as far as they are now recollected, and a confidence is entertained that the Statement is ſubſtantially accurate.

THE ſuit was brought in the mayor's court of the city of New York, for the occupation and injury of a brew-houſe in that city, during the poſſeſſion of it by the Britiſh army, founded upon an act of the ſtate of New York, entitled "An Act for granting a more effectual relief in caſes of certain treſpaſſes," which gives remedy, by action of treſpaſs, to all citizens who had reſided without the enemy's lines, againſt thoſe who had reſided within thoſe lines, wherever the property of the former had been occupied, injured, deſtroyed, purchaſed, or received by the latter, declaring, "that no defendant ſhould be admitted to plead in juſtification, any military order or command whatever of the enemy, for ſuch occupancy, injury, deſtruction, purchaſe, or receipt, nor to give the ſame in evidence on the general iſſue." This act was paſſed ſubſequent to the proviſional, but prior to the definitive, treaty. The fact was, that the defendant had occupied the brew-houſe in queſtion, under regular authority of

the British army, proceeding, for a part of the time, immediately from the commander in chief, and for another part of it from the quarter-master-general, and had even paid rent for the use of it.

Several pleas were pleaded for the different portions of time corresponding with the state of the fact, one alleging the occupation, under the immediate order of the commander in chief, the other under that of the quarter-master-general.

The particulars of the pleas appear to be accurately stated in Mr. Hammond's memorial.

The court allowed the plea which alleged the occupation under the immediate authority of the commander in chief, and over-ruled the other, giving judgment for the plaintiff for the portion of time covered by the latter. The ground of distinction was, that it could not be in the course of service, for a quarter-master-general to let out brew-houses.

The force of the treaty to over-rule the inhibition against pleading a military order, was admitted by the decision, which allowed, in fact, the validity of such an order, when proceeding from the commander in chief.

But a writ of error was brought by the defendant to reverse the judgment in the supreme court, and pending that writ, a *voluntary compromise* between the parties took place, which superseded its prosecution to a final decision. A sum of money was paid by the defendant, in consequence of this compromise.

It is, however, but candor to acknowledge, that from the uncertainty of the event, the desire of the defendant to compromise, as a prudential course, was not discouraged by his counsel.

It is not recollected that any decision ever took place in the supreme court of the state, giving effect to the inhibition above mentioned. It is believed that none ever did.—The exceptionable clause was repealed by an act of the 4th of April, 1787, which put an end to the question. I acted as attorney and counsel for the defendant.

ALEXANDER HAMILTON.

PHILADELPHIA, April 19th, 1792.

No. 47.

PHILADELPHIA, April 11th, 1792.

SIR,

HAVING been accidentally present at the examination of the witnesses against John Smith Hatfield, taken before the proper magistrate, in New Jersey, on a hab. corpus brought by Hatfield, to obtain an order for bail or discharge, I have taken the liberty to give the substance of the testimony. Hatfield was an inhabitant of Elizabeth-town, in New Jersey, and went over to the British in 1778. A certain Mr. Ball, also an inhabitant of New Jersey, used to supply the British on Staten Island, with provisions, by stealth, it being contrary to our law. A spy having been taken in our lines, who had been a refugee, was tried by a court martial and executed. The next time Ball went over to the island with provisions, the refugees, of

whom John Smith Hatfield was one, ſeized him, and threatened to execute him in retaliation. The Britiſh commanding officer expreſsly forbade it, on which they determined to take him out of the Britiſh lines, and within ours, and there execute him. The commanding officer ſent for the witneſs, and after enquiring into the character of Ball, told the witneſs that he had forbade it, but ſtill feared that they would put their threats into execution, by removing Ball without his juriſdiction. But if they ſhould, the officer deſired witneſs to inform our people that the Britiſh had nothing to do with it, and that the perſons guilty of the crime, muſt anſwer, alone, for it. On witneſs's return, he ſaw a boat with a number of men, among whom Hatfield was one, paſſing over to Bergen ſhore, he ſaw them land, take a man, who was tied, out of the boat, and lead him to a tree, place him on a table, and one of the number tie a rope, that was round his neck, to a limb of the tree, and take the table from under him, whereby he was left hanging. Witneſs waited at the tavern till their return, when he heard Hatfield ſay, that he had hanged Ball, and wiſhed he had many more rebels, he would repeat it with pleaſure.

Sometime afterwards Hatfield ſhowed witneſs the tree on which he ſaid he had hanged Ball, and where he was buried.—On this evidence, and other corroborating teſtimony, the magiſtrate took the matter into conſideration, but on examining the hab. corpus, and finding it had iſſued at common law, and not under the ſtatute, and knowing that he acted merely in a ſummary way, determined that it would be highly imprudent for him to decide ſo great a queſtion, and one in which the treaty of peace was involved, on ſo ſlight a conſideration, when the court was near at hand, he concluded to remand the priſoner to New Ark gaol, where he had nearly loſt his life by his debaucheries.

At the meeting of the court in Bergen county (in which the crime was committed) the evidence did not attend, whereupon the court adjourned the buſineſs till the next court, and conſidering the peculiar ſituation of the priſoner, thought proper to bail him, but Hatfield immediately ran away and never again returned.

The bail have applied to the legiſlature for relief againſt their recognizance, and I believe have been diſcharged.

Theſe are the facts, in ſhort, as far as my memory will ſerve me; my colleagues not knowing of this matter, but from general report, could ſay nothing but what aroſe therefrom.—I cannot aſcertain the year this happened, with certainty, but believe it was in 1788. If it ſhould be neceſſary, the affidavits may be produced, as they are with the judge, or among the files of the court.

I have the honor to be, with great reſpect,
Sir, your moſt obedient humble ſervant,
ELIAS BOUDINOT.

The honorable the Secretary of State.

Since writing the above, Mr. Boudinot is well informed that Hatfield's counſel has adviſed his bail to plead to the action againſt them on the recognizance, as they conſider them as not legally bound to pay

the forfeiture, and not to apply to the legiſlature for redreſs. This has been done ſome time paſt, ſince which the attorney-general has not moved the queſtion.

No. 48.

I DO hereby certify, that there never has been either originally inſtituted in the ſupreme court of the United States or removed there, from any inferior court of the United States, any ſuit or claim, between a ſubject of the king of Great Britain on the one part, and a citizen or citizens of the United States on the other.

As witneſs my hand,

SAMUEL BAYARD,

Clk. of the ſupreme court of the United States.

Philadelphia, April 25th, 1792.

No. 49.

THE ſubſcribing ſenators and repreſentatives of the ſtate of Maryland, in the congreſs of the United States, in reply to the enquiries addreſſed to them by the ſecretary of ſtate, not having in this city the neceſſary documents, to which they might particularly refer, can only inform him generally,

That ſoon after the pacification between theſe ſtates and Great Britain, complaints of an obſtruction to the recovery of Britiſh debts in ſome of the ſtates by his Britannic majeſty's miniſter, Mr. Pitt, were tranſmitted by congreſs to the ſeveral ſtates, accompanied by a requiſition of that honorable body, that laws ſhould be paſſed to ſecure the effectual obſervance of the treaty. The legiſlature of Maryland in conſequence thereof, enacted a law declaring the treaty the ſupreme law of the land, which was in reality, but a compliance in form, with what had, in effect, taken place immediately after the exchange of the ratifications of the definitive treaty. Britiſh ſuits having been maintained from that period, in the ſuperior and inferior tribunals throughout the ſtate without any obſtruction whatever, to our knowledge, except in one inſtance in the county of Charles, wherein a lawyer thought it adviſable to withdraw ſome actions of this deſcription, from a dread of popular interference. But on the ſpeedy interpoſition of authority, thoſe ſuits were all reſtored, and the perſons concerned brought to a proper ſenſe of their miſconduct: from that event to the preſent, Britiſh claimants, as well under contracts previous to the late war, as ſince, have, in every inſtance, enjoyed every facility in the tribunals of juſtice of Maryland, equally with her own citizens. They have recovered in due courſe of law and remitted to Great Britain, large debts of either deſcription.

It is, however, to be underſtood, that the caſes of perſons who, during the late war paid debts, contracted previouſly thereto, into the treaſury of Maryland, by virtue of, and in conformity with, two acts of that ſtate of 1780, chapter 5th and 45th, have preſented to the courts of that country, an important queſtion, involving principles of much nicety, extenſive national importance, which if not analo-

gous to, and expreſsly protected by, the laws of nations, and precedents drawn from other countries, were yet of novel impreſſion in America, and required much deliberation. A variety of ſuch ſuits were brought; the uſual ſteps were regularly and without interruption purſued; the gentlemen at the bar of the ſupreme common law court were nearly equally divided, on the different ſides of theſe claims, and it was finally agreed between them, to ſelect ſome one caſe for trial, on the fate of which the reſt ſhould depend. The caſe of Mildred againſt Dorſey, which is particularly mentioned by the ſecretary, was the individual caſe ſo ſelected, and after a full hearing, the court determined againſt the American citizens, in favor of the Britiſh claimants; on which an appeal was entered, as is uſual in all caſes of conſequence, and that cauſe together with all others ſimilarly circumſtanced, wherein new ſecurity could be procured by the defendant, removed to the high court of appeals of Maryland, where it now remains for final deciſion, and where it will be tried as ſoon as the accuſtomed legal forms are complied with. Throughout the whole progreſs of this ſuit, there has been no delay on the part of the courts or the defendants; all the forms have been conducted upon the principle of mutual agreement between the counſel on either party.

With reſpect to the caſe of Harriſon's repreſentatives:—On the diſcloſure of facts made by the truſtees of the will of Harriſon, on oath, in chancery, in conſequence of the claim made by the attorney-general, in behalf of the ſtate, the chancery court determined it in favor of the ſtate, it is believed, on this principle, that however Great Britain might conſider the antinati, as ſubjects born, and that they could not diveſt themſelves of inheritable qualities, yet that the principle did not reciprocate on America, as thoſe antinati of Great Britain could never be conſidered as ſubjects born of Maryland.

The legiſlature, however, took the matter up and paſſed an act relinquiſhing any right of the ſtate, and directing the intention of the teſtator to take effect, notwithſtanding ſuch right. It is conceived, that this was a liberal and voluntary interpoſition, on the part of the legiſlature, in behalf of the repreſentatives of Harriſon, who are at liberty to purſue their claim.

JNº. HENRY,
CH. CARROLL, of Carrollton,
JOHN F. MERCER,
SAMUEL STERRET,
JOSA. SENEY,
W. V. MURRAY,
PHILIP KEY,
UPTON SHEREDINE.

No. 50.

Extract of a Letter from William Tilghman, Esquire, to
dated Chester-Town, April 26th, 1792.

DEAR SIR,

YOUR favor of the 15th inſtant, found me at Eaſton. There is no doubt but Britiſh ſubjects have uniformly been permitted to recover from the citizens of Maryland, their debts due on cauſes of action exiſting before the late war.—The only diſpute has been about the intereſt which accrued *during the war*. Our courts have decided the point of intereſt againſt the Britiſh creditor.—But this deciſion has been founded on general principles, and not on any act of aſſembly contravening the treaty of peace.

We have recognized that treaty as the law of the land, by a particular act of aſſembly, and our judges have given one very ſtriking proof of their impartiality in the conſtruction of it. I allude to the deciſion of the general court in favor of Britiſh creditors, againſt a number of Maryland citizens, who, during the war, depoſited paper money in the treaſury, under the ſanction of a law at that time exiſting, in ſatisfaction of their debts. Whether the treaty ſhould have ſuch retroſpect as to avoid theſe payments was certainly a doubtful point.

It would be endleſs to enumerate the particular inſtances of Britiſh debts recovered. One or two I will mention, of a ſtronger nature than common, which have fallen within my own knowledge. Cn. Chriſtie, whoſe eſtate (except his debts) was confiſcated, for adhering to the Britiſh army, recovered upwards of £. 1200 ſterling, from Colonel Richard Graves, of this county, on a judgment obtained before the revolution.—Mr. George Rome, of London, received *from the ſtate of Maryland*, upwards of £. 1700 currency, on a claim which he had againſt Colonel Chalmers of the Britiſh army, whoſe eſtate had been ſeized by the ſtate, on an attainder of treaſon. In ſhort, it is notorious that we have complied with the true ſpirit of the treaty, and that our government has thrown no legal impediment in the way of the recovery of debts due to Britiſh ſubjects from our citizens, prior to the revolution.

I am, dear Sir, with reſpect and eſteem, yours,

WM. TILGHMAN.

No. 51.

DEAR SIR, ANNAPOLIS, April 23d, 1792.

YOUR favor of the 15th inſtant came ſafe to hand, and on examining the records of our court, I find a number of ſuits, commenced by Britiſh merchants, againſt citizens of this ſtate, for debts contracted before the revolution, in which judgments have been univerſally rendered and carried into execution; the plaintiffs in every caſe, releaſed the intereſt during the war. James Gordon and others, have brought at leaſt a hundered ſuits, ſince the year eighty-five, for old debts, and recovered judgments: John Buchanan and Co. have alſo brought a number of ſuits, in which they have alſo obtained

judgments; one in particular, againſt Charles Ridgely, ſon of William, of Baltimore county, for a very conſiderable debt, in which a payment into the treaſury was plead, and proves to have been made agreeably to our act of aſſembly; in this, and ſeveral other ſimilar caſes, the court on a caſe ſtated, gave judgment for the plaintiffs for the full ſum due, with intereſt, except the intereſt during the war, computed from the 4th July, 1776, to the 3d September, 1783. Spears, French, and Co. James Ruſſel's adminiſtrator, and ſeveral other Britiſh merchants, have brought ſuits for debts of the above deſcription, and recovered judgments with as much facility, as one citizen againſt another could do. I could with caſe give you the parties' names, in all the judgments rendered in our court, of the deſcription you mention, but from your letter, I imagine a few will anſwer. I have, therefore, only ſelected ſuch as you will obſerve at the foot of this letter.

I am, dear ſir, with great eſteem, your very humble ſervant,

JNº. GWINN.

James Gordon, formerly the houſe of John Glaſsford & Co.	*vs. Judith Chaſe.*
Same,	*vs. George Dent.*
John Buchanan & Co.	*vs. Charles Ridgely, of William.*
Same,	*vs. Samuel Lane.*
Cunningham, Findley, & Co.	*vs. John Belt.*
Same,	*vs. Nicholas L. Sewell.*
George and Andrew Buchanan,	*vs. Randolph Brandt.*
Same,	*vs. Richard Brandt.*
James Clerke, adm: of Jas. Ruſſell,	*vs. Joſeph Davis.*
Same,	*vs. Joſeph Wilkinſon.*
Thontas Stewardſon, adm. of Daniel Mildred,	*vs. Edward Dorſey, ſon of Jno.*
Same,	*vs. John F. Bowie.*
Spears, French, & Co.	*vs. Robert Warfield.*
Same,	*vs. John Plummer.*
James Brown & Co.	*vs. Henry Stoneſtreet.*
Same,	*vs. John Thomſon.*

Honorable William V. Murray, *Eſq.*

No. 52.

PHILADELPHIA, May 1ſt, 1792.

SIR,

IN April, 1791, in the diſtrict court of Frederickſburgh, the caſe Mitchell againſt Wallis, in which the law of the ſtate was plead, in bar of the debt, the following were the circumſtances:

Mitchell, a native of Great Britain, reſiding and trading in Virginia, having debts due him to a great amount, conveyed them, with other property, juſt before the war, to the uſe of his creditors, in Great Britain, and of one creditor in Virginia. In this ſituation the debts remained through the war; and the action was brought in favor

of the Britiſh creditors, in 1788 or 89, and judgment rendered for the plaintiffs. Several other judgments were entered in favor of the ſame parties, in that and the ſubſequent term. This muſt be deemed ſuch a debt as was ſuppoſed to be prohibited and provided for by the treaty: It was ſo argued on the part of the defendant, whoſe counſel I was, and yet judgment was given againſt him.

I have not known of any other inſtances, wherein the right to recover was regularly conteſted. It was, however, always the opinion of the ableſt counſel at the bar, that thoſe debts were recoverable, that no law prohibited it, and if it were otherwiſe, that the treaty would controul it. Since the eſtabliſhment of the preſent government, upon the preſumption there would be no further doubt on the ſubject, I have likewiſe heard ſeveral of the ſtate judges ſay they had entertained the ſame opinion.

It is true the Britiſh merchants declined generally bringing ſuits prior to that event, nor indeed have any great number been ſince brought in the federal courts. For the motive to this conduct, it is not neceſſary to hazard a conjecture, as your enquiries reſpect only the law, and the deciſions under it. Certain it is, they have been progreſſing, and with great ſucceſs ſince the peace, in the amicable adjuſtment of their accounts with their debtors, which has perhaps been more effectual (admitting that there was no diſpute about the recovery otherwiſe than other debts) than any other courſe would have been.

The county courts, until very lately, have had excluſive juriſdiction of ſums under ten pounds only. Upon all ſums above that amount their deciſions have been ſubject to the reviſion and controul of the ſuperior courts. A late modification gives them original juriſdiction of ſums under £. 30—but, as well as I remember, ſubject as before to correction of the ſuperior courts by appeal or ſuperſedeas. I believe there are but few debts under that ſum of the kind referred.

In the federal court no cauſe had been put at iſſue, until the laſt November term, at which time, that of Jones and Walker was argued, but continued over to the preſent upon account of the abſence of Judge Blair, who left the bench in conſequence of the death of his ſon.

I have the honor to be, &c.

JAS. MONROE.

No. 53.

The SECRETARY *of* STATE.

PHILADELPHIA, May 6th, 1792.

SIR,

A WRITTEN requeſt from you, was ſome days ſince preſented to me, as one of the delegation in congreſs for the ſtate of Virginia, to communicate to you, ſuch information reſpecting the preſent ſtate of debts due to Britiſh ſubjects in that ſtate, as had come to my knowledge; in compliance with which requeſt, I now furniſh you with the following ſtate of facts.

Previouſly to my election to congreſs, I had been engaged for ſeveral years in the practice of law in the ſtate of Virginia. In the proſecution of that buſineſs, I was often applied to upon the ſubject of debts due to Britiſh ſubjects, and had an opportunity of obſerving the proceedings of ſeveral of the courts, in ſuits brought for the recovery of ſuch debts.

The rules of ſeveral of the county courts, were not entirely uniform. In ſome of the counties, ſuits of that deſcription were generally continued upon the dockets without trial; but they were ſuch as were not much preſſed by the plaintiff's counſel. In other counties they were brought to trial, and in all the caſes within my recollection, in which the debts were eſtabliſhed by competent teſtimony, judgments were rendered for the plaintiffs; except in one inſtance, in the court for the county of Cheſterfield, where, upon an *iſſue of fact* upon the plea of a *Britiſh debt*, the jury found the plaintiffs to be Britiſh ſubjects, which finding cauſed ſome delay, but judgment was afterwards rendered in the ſame court for the ſame debt, and the money ſince paid under the judgment.

The plaintiffs in this ſuit were formerly Britiſh merchants, under the firm of Robert Donald, jun. and Co. I was counſel for the company in that ſuit, and have been concerned as counſel for them, or for ſome of the members under other firms, in at leaſt one hundred caſes, in which the plaintiffs have received judgments in their favor, and, I believe, have been as ſucceſsful in collecting monies under judgments as is uſually the caſe with citizens of the ſtate of Virginia. I recollect a caſe in the court of the county of Cumberland, in which Robert Donald was plaintiff againſt Rolfe Eldridge defendant, upon a bond, judgment was given for the plaintiff. The defendant obtained an injunction from the chancery ſide of the ſame court to ſtay proceedings, &c. upon the ſuggeſtion, that the debt was originally due to Britiſh ſubjects, who were merchants and partners, and had been changed by obtaining a bond to Donald, in his individual capacity, who was an American citizen. Upon application the ſuit was brought before the chancellor by *certiorari*, and the injunction diſſolved; during the ſame time, the money for which judgment was rendered, has been ſince paid, I believe, to my agent, and paſſed in account with me, to the credit of the company of which Donald was a member.

I am now concerned in ſeveral ſuits in the high court of chancery, for the purpoſe of foreclоſing mortgages executed to Britiſh ſubjects; they have not yet come to a deciſion. I entertain no doubt, however, but that the decrees will be for foreclоſing the mortgages and the payment of the money ſecured by them. It may be obſerved, upon the whole, that there have been temporary delays in ſome of the courts, attending the recovery of debts of the deſcription before mentioned, but it is certain, that many judgments have been rendered for them, and monies paid, by means of compulſory proceſs, in purſuance of thoſe judgments. I am now in great haſte. If any further in-

formation within my knowledge be neceſſary, I ſhall take pleaſure in communicating it, upon requeſt.

I am, ſir, with very great reſpect,
Your obedient ſervant,

WM. B. GILES.

No. 54.

SENATE CHAMBER, 13th April, 1792.

SIR,

I HAVE heard of but few ſuits brought by Britiſh creditors, ſince the peace, for the recovery of debts in the ſtate of North Carolina, and never heard that any one had failed of a recovery, becauſe he was a Britiſh ſubject. In one inſtance, where a ſuit was inſtituted, and in my direction, for the recovery of a debt, contracted in 1768, at which time the plaintiff returned to Great Britain and has been reſident in London from that time, a recovery was had, in the ſuperior court at Edenton, in April laſt, for the full value, nor was it any part of the defence, that the plaintiff was a Britiſh ſubject, though the fact was notorious. The parties were Alexander Elmſley againſt Stephen Lee's executors.

The caſe of Bayard againſt Singleton, as I recollect it, was this: Mr. Cornell, the father of Mr. Bayard, was a merchant in the town of Newbern, in North Carolina; ſome time previous to the declaration of independence, he went to Europe, leaving his family in Newbern, and after that returned from Europe to New York, then a Britiſh garriſon. From New York, he came to Newbern in a flag of truce, but the aſſembly, then ſitting, refuſed to permit him to come on ſhore, unleſs he would take an oath of allegiance to the ſtate, which he refuſed. While on board the veſſel, in the harbour of Newbern, he conveyed the whole of his eſtate in North Carolina, to his children reſpectively, by ſeveral deeds of gift, which were duly proved and regiſtered. Mr. Cornell then, with the permiſſion of the executive, removed his wife and children to New York. All Mr. Cornell's eſtate was afterwards declared to be confiſcated, by an act of aſſembly, and all the property which Mr. Cornell had conveyed to his children, was ſeized, and ſold by commiſſioners appointed for the ſale of confiſcated eſtates.

Mr. Singleton became a purchaſer of part of it. Under this ſale, one of Mr. Cornell's daughters, who claimed that part under one of the above mentioned conveyances, inſtituted an ejectment for the recovery of it, and on trial, a verdict was given for the defendant.

I ſhould have done myſelf the pleaſure ſooner to have anſwered your queries, had I not parted with your notes immediately, and did not get them back till this morning.

I am, &c.
SAML. JOHNSTON.

No. 55. A.

SIR,

IN anſwer to your queſtions relating to the recovery of certain debts in South Carolina, I have the honor of informing you, that it is thought that ſeveral inſtances of judgment for Britiſh debts have occurred, but for want of time to procure direct official information from South Carolina, the only inſtance which can now be aſcertained here, is of the houſe of Powel, Hopton & Co. having obtained judgment againſt a citizen of South Carolina, for a debt contracted previous to the war.

Mr. Brailsford one of the partners in this company, reſided during the war in Great Britain, but is now a reſident in South Carolina; the other partners, Meſſrs. Powel and Hopton both withdrew themſelves, during the war, to the Britiſh dominions, and are now ſubjects of his Britannic majeſty. An inſtance of a ſuit in chancery having been commenced and now pending between the Britiſh houſe of Shubrick, and a citizen of South Carolina, for a diſcovery of aſſets, can likewiſe be aſcertained here; and will tend to prove, that Britiſh ſubjects have free acceſs to the courts of South Carolina. Neither can any act of the legiſlature, making a diſcrimination between their own citizens and the ſubjects of Great Britain, in this particular, be adduced, except on the queſtion of intereſt during the war, which by their act is reſerved for judicial determination. They ſeem therefore to have conſidered the 4th article of the treaty of peace as importing nothing more, than that the ſubjects of his Britannic majeſty ſhould receive as ample and as ſpeedy juſtice in the recovery of their debts as their own citizens:—in conformity to which principle, their regulations concerning the recovery of debts have been eſtabliſhed.

The new federal conſtitution is now, however, adopted by that ſtate, and the federal courts are in the excerciſe of their powers.

Paper money is no longer a tender in payment of debts, and the 2d ſection of the 9th article of their ſtate conſtitution, formed in June, 1790, declares, that no law impairing the obligation of contracts, ſhall ever be paſſed by the legiſlature of the ſtate.

I have the honor to be,
With ſentiments of the utmoſt conſideration and reſpect,
Sir,
Your moſt obedient, and
moſt humble ſervant,
THOMAS PINCKNEY.

PHILADELPHIA, 9th May, 1792.

The Secretary of State.

No. 55. B.

Extract of a Letter from Edward Rutledge, Eſq.—dated Charleſton, 26th May, 1792.

YOU know I am not fond of the attorney's buſineſs, and do but little of it; however, in my own practice I can furniſh ſeveral in-

ſtances of actions having been brought by Britiſh ſubjects, for debts due to them before the war, by American citizens, and carried to judgment.

The Rev. Mr. Cowper, who in the firſt commencement of the war, refuſed to take the oath, and went off, brought an action againſt Melchier Garner, executor of William Garner. I brought it, proſecuted it to judgment, and iſſued execution—the eſtate inſolvent becauſe his moveable property was carried off or deſtroyed by the Britiſh during the war.

Powel, Hopton and Co. vs. Gaillard—I carried this to judgment, idem, vs. Godfrey, I carried to judgment and execution, and the party ſatisfied—i. e. received ſatisfactory payments.

James Simpſon vs. executors of Major Huger, Bay attorney, judgment and execution—Roſs and Mills vs. John Deas—debt on bond in 1773, for a real Britiſh debt with Britiſh merchants who were never in this country. I carried it to judgment. After the death of Deas the executors applied to Mr Penman, who was the agent of Roſs and Mills for permiſſion to ſell—he gave permiſſion—they ſold—he bought a plantation, which Mr. Lowndes took off his hands, and gave the bonds of John Middleton in payment, the balance of the debt was diſcharged to the ſatisfaction of Mr Penman, and I, as attorney on record, entered up ſatisfaction—this caſe goes the whole length of the buſineſs.

And I aver that there is not a ſingle inſtance to be produced, wherein a Britiſh creditor of any deſcription has met with more impediment in the recovery of his debt, than our own citizens. The queſtion of intereſt has not yet been tried, but we were ever ready to try it.

No. 56.

Sir,

IN anſwer to your note of the 16th inſtant, we muſt ſay that we know of no inſtance of a recovery in the ſtate of Georgia by a Britiſh creditor againſt his debtor; we ſay with equal truth, that we know no inſtance of any judgment againſt ſuch recovery ſince the ratification of the treaty of peace, as the creditors, inſtead of reſorting to the law, have ſettled, or are in a courſe of ſettling, in an amicable way with their debtors: and we are ſtill further able to aſſure you, that the federal court is as open and unobſtructed to Britiſh creditors in Georgia, as in any other of the United States.

With great reſpect, we are, &c.

W. FEW,
J. GUNN,
ABR. BALDWIN,
FRANS. WILLIS.

April 25th, 1792.

Tho. Jefferſon, *Eſq.*

No. 57.

Extract of a Letter from the Honorable John Adams, Esq. Minister Plenipotentiary of the United States of America, at the Court of Great Britain, to the Honorable John Jay, Esq. Secretary for Foreign Affairs—dated Grosvenor Square, June 16th, 1786.

LORD Carmarthen told me yesterday "That he had letters from Mr. Anstey mentioning his civil reception:" A long conversation ensued upon the subject of the posts, debts, &c. little of which, being new, is worth repeating. The policy of giving up the interest during the war, and of agreeing to a plan of payment by instalments, was again insisted on, from various considerations, particularly from the evident injustice of demanding interest for that period. It was urged that the claim of interest, in most cases, was grounded upon custom; and the mutual understanding of the parties; but that it never had been the custom, nor had it ever been understood or foreseen, that an act of parliament should be passed, casting the American debtor, out of the protection of the crown, cutting off all correspondence and rendering all intercourse criminal; for that was the result and the legal construction during the whole war.

Here his lordship fully agreed with me, and even out-went me, saying, that "It was very true, that by construction of the law of this land, it was high treason in a creditor in Great Britain to receive a remittance from his debtor in America during the war." His lordship added some slight expressions concerning the interest, and wished that the courts were opened for recovering the principal: We might leave the interest for an after consideration.

No. 58.

Extract of a Letter from the Commissioners of the United States, for negociating a Peace with Great Britain, to D. Hartley, Esq.—dated Passy, July 17th, 1783.

WE are also instructed to represent to you, that many of the British debtors in America, have in the course of the war, sustained such considerable and heavy losses by the operation of the British arms in that country, that a great number of them have been rendered incapable of immediately satisfying those debts: We refer it to the justice and equity of Great Britain, so far to amend the article on that subject, as that no execution shall be issued on a judgment to be obtained in any such case, but after the expiration of three years from the date of the definitive treaty of peace. Congress also think it reasonable that such part of the interest which may have accrued on such debts during the war, shall not be payable, because all intercourse between the two countries, had, during that period, become impracticable as well as improper; it does not appear just that individuals in America should pay for delays in payment which were occasioned by the civil and military measures of Great Britain.

In our opinion the interest of the creditors as well as the debtors, requires that some tenderness be shown to the latter, and that they should be allowed a little time to acquire the means of discharging

debts, which in many instances, exceed the whole amount of their property.

No. 59.

Extract of a Letter from William Rawle, Esq. Attorney of the United States, for the District of Pennsylvania, to the Secretary of State—dated April 9th, 1792.

I ENCLOSE a copy of the docket entries in the case of Hoare vs. Allen, which show that the plaintiff acquiesced in the verdict given, and that the whole mortgaged property did not sell for half his debt. The plaintiff in this case was, and is also, a subject of, and resident in, Great Britain.

The court in this, as they have done in every similar case, directed the jury to deduct 7 1-2 years' interest. The jury however, deducted 8 1-2 years' interest. If the plaintiff had moved the court on the return of the *postea*, a new trial would have been granted, or as the sum was certain, it is probable the court would have recommended, and the parties have made, the necessary alteration in the judgment.

I have the honor to be,
Sir,
Your most obedient
Humble servant,
W. RAWLE.

SAMUEL HOARE, *vs.*
ANDREW ALLEN, jun. *and the true tenants of* Pikeland. } *In the Supreme Court of Pennsylvania.*

Removed by certiorari from the common-pleas of Chester county—returnable to January term, 1788.

At nisi prius at West Chester, 8th May, 1789, tried verdict for the plaintiff, and jury certified to the court, that the debt due on this action by the defendants to the plaintiff, amounted to thirty-seven thousand one hundred and nine pounds and one penny, and found six pence damages and six pence costs, besides the costs expended.

2d July, 1789, Judg. nisi, from the records, pr.
GEO. DAVIS, for
EDW. BURD, Prothon.

I certify that a levari facias issued upon the above judgment returnable to September term, one thousand seven hundred and eighty-nine, and by virtue thereof, the sheriff seized and took in execution ten thousand one hundred and sixteen acres of land, being the premises mortgaged, and afterwards sold the same at public vendue for the sum of fifteen thousand pounds, lawful money of Pennsylvania, to Samuel Hoare, he being the highest and best bidder.

Witness my hand, the 7th April, 1792.
GEO. DAVIS, for
EDW. BURD, Prothon.

No. 60.

Extract of a Letter of March 15th, 1788, from the Britiſh Conſul at Philadelphia, to the Preſident of Pennſylvania.

"THE ſettlement of intereſt on debts due to Britiſh merchants, here, antecedent to the late troubles, has already been a ſubject of ſome diſcuſſion in the courts, and will, I preſume, be deemed by your excellency and the council, a matter of ſo much importance, as to require ſome particular legiſlative interpoſition, to define its nature and extent."

Obſervations on the preceding Extract, by William Lewis, Eſq. Attorney of the Diſtrict of Pennſylvania, for the United States.

THE legiſlature of the year 1788, did not think themſelves authoriſed by any principles of ſound policy or good government, to paſs a law to define the nature and extent of contracts entered into more than a dozen years before, and it is reaſonable to preſume that ſuch a law would have been complained of as an infraction of the treaty. Every perſon has been left to purſue his remedy at law, without any particular act being made for the allowance or abatement of intereſt; and as the queſtion has altogether depended on the laws of England, the conſul's acknowledgment that "The channels of juſtice flow with great purity, and impartiality in Pennſylvania, and that the laws are faithfully and diligently adminiſtered," ſeems to be a full refutation of his own objection. Since, however, the objection is ſo much inſiſted on, I will take the liberty of mentioning ſome facts, a knowledge whereof may be neceſſary to form a judgment reſpecting it.

I believe it is truly ſtated by the conſul, that "The terms of contracts between Britiſh and American merchants, are, for the moſt part, of this ſort. Goods are ſent hither to be paid for in one year; after which intereſt becomes due at the yearly rate of 5 per cent." This having been a long eſtabliſhed uſage, has ſo far received the ſanction of our courts, as that intereſt has been allowed in ſuch caſes from the end of the year; but as there is no poſitive law for the allowing of intereſt on an account, as the claim of intereſt by Britiſh merchants from their American debtors, was founded on this uſage alone; and as no inſtance has before happened, of the intercourſe between the people of Great Britain and of America being interrupted by war, our courts held the caſe to be a new one, to which the uſage did not extend, and as there was neither law nor uſage for allowing intereſt during the war, that is, from the battle of Lexington, in April, 1775, until the proviſional articles between the United States and his Britannic majeſty, in November, 1782, it has been generally diſallowed during that period.

If the debt had been contracted more than a year before the battle of Lexington, intereſt has been allowed, I believe in all caſes, from the time of the debt becoming due, until the battle of Lexington, and from the proviſional articles, until the time of payment. The rule has been reciprocal. It prevailed in a trial in our ſupreme court,

wherein a citizen of a neighbouring ſtate was plaintiff and a Britiſh ſubject defendant, although the debt had been contracted long before the war. It has been obſerved in other caſes, and I very much doubt if a different one has prevailed at Weſtminſter-Hall, in actions brought on running accounts.

The judges have uniformly and without heſitation declared in favor of the treaty, on the ground of its being the ſupreme law of the land. On this ground they have not only diſcharged attainted traitors from arreſt, but have frequently declared, that they were entitled by the treaty to protection.

I am, with the higheſt eſteem,
Your moſt obedient, and
very humble ſervant,
WILLIAM LEWIS.

The Honorable Thomas Jefferſon, *Eſq.*
Secretary of State of the United States.

Mr. Hammond, Miniſter Plenipotentiary of Great Britain, to Mr. Jefferſon, Secretary of State of the United States.

PHILADELPHIA, June 2d, 1792.

SIR,

I HAVE the honor of acknowledging the receipt of your letter of the 29th ult. which I ſhall tranſmit, without delay, to my court, for the conſideration of his majeſty's miniſters.

The matter contained in your letter, being ſo various and extenſive, I fear that much time muſt elaſpe, before I can be enabled to communicate to you my obſervations upon it. You may, however, be aſſured, that I will uſe every exertion to avoid unneceſſary procraſtination.

To this obſervation you will permit me, ſir, to add that ſome of the principles, which you have advanced, do not appear to me, at the preſent moment, to be entirely relevant to the ſubjects actually under diſcuſſion between our reſpective countries: And the difference between us in our ſtatement of poſitive facts is ſo eſſential as to render it an act of duty to my own character, to vindicate the purity of the ſources, from which I have derived my information, by recurring to them for corroborating teſtimony. If there exiſt any points upon which I have been miſinformed, I will moſt readily acknowledge my error; but I truſt, upon the whole, that the additional evidence with which I expect to be furniſhed, will fully ſubſtantiate the allegations I have made, and effectually protect me from the imputation of negligence, or the ſuſpicion of intentional deception.

Although it is by no means in my power to enter into an immediate examination of the general contents of your letter, my deſign of ſending it to England induces me to requeſt an explanation of one part of it, which refers to a tranſaction that you ſtate to have taken place in that country. Towards the concluſion of your letter, you cite two caſes, which, in your opinion, controvert my poſition that "in the courts of law, in Great Britain, the citizens of the United States,

have experienced, without exception, the ſame protection and impartial diſtribution of juſtice as the ſubjects of the crown."—With reſpect to the former of thoſe caſes (that of the ſum of money, the property of the ſtate of Maryland, and detained in England) I have ſome general notion of the particulars of it,—But in regard to the latter caſe, I have no knowledge of it whatſoever. I therefore intreat you, ſir, to have the goodneſs to inform me, whether the judge of the court of king's bench, to whom you allude, delivered the opinion of the court, in the general terms which you have employed, viz. "that *a citizen of the United States*, who has delivered £. 43,000 ſterling worth of Eaſt India goods to a Britiſh ſubject at Oſtend, receiving only £. 18,000 in part payment, is not entitled to maintain an action for the balance, in a court of Great Britain, though his debtor be found there, is in cuſtody of the court, and acknowledges the facts."

I muſt own, ſir, that even from your ſtatement, I am inclined to infer, that the circumſtance of Greene's being a citizen of the United States, had no connection with the deciſion of the queſtion; and that the ſame judgment would have been given in an action of a ſimilar nature, depending between two ſubjects of the crown of Great Britain.

I have the honor to be, ſir, &c.

GEO. HAMMOND.

To the Miniſter Plenipotentiary of Great Britain.

PHILADELPHIA, June 19th, 1793.

SIR,

I HAD the honor to addreſs you a letter, on the 29th of May was twelvemonth, on the articles ſtill unexecuted of the treaty of peace between the two nations. The ſubject was extenſive and important, and therefore rendered a certain degree of delay, in the reply, to be expected. But it has now become ſuch, as naturally to generate diſquietude. The intereſt we have in the weſtern poſts, the blood and treaſure which their detention coſts us daily, cannot but produce a correſpondent anxiety on our part. Permit me, therefore, to aſk, when I may expect the honor of a reply to my letter? and to aſſure you of the ſentiments of reſpect, with which I have the honor to be, ſir, yours, &c.

TH. JEFFERSON.

Mr. Hammond, Miniſter Plenipotentiary of Great Britain, to Mr. Jefferſon, Secretary of State.

PHILADELPHIA, 20th June, 1793.

SIR,

I HAVE duly received your letter of yeſterday. In a written communication, which I had the honor of addreſſing to you on the 2d of June, 1792, and alſo, in a converſation which I had with you on the following day, I aſſured you, that I ſhould loſe no time in conveying to the king's miniſters in England, your repreſentation,

dated the 29th of May; and it was, in fact, forwarded to them in the courſe of ſome few days afterwards.

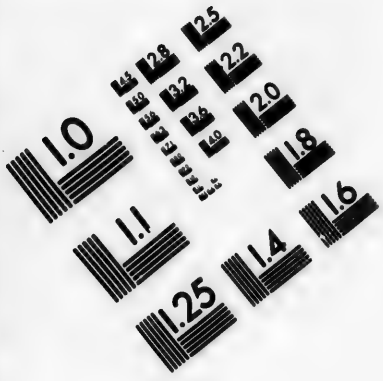
On the receipt of that paper, I was informed, by his majeſty's principal ſecretary of ſtate, that it would be taken into immediate conſideration, and that after it had been thoroughly examined, I ſhould receive ſome farther inſtructions relative to it. The tranſmiſſion of thoſe inſtructions, which I daily expect, has, I preſume, hitherto been delayed, in conſequence of the very intereſting events, which, ſince the receipt of it, have occurred in Europe, and which have been of a nature ſo preſſing and important, as probably to have attracted the whole attention of his majeſty's miniſters, and thus to have diverted it from objects that are more remote; and that, may, perhaps, have been regarded as ſomewhat leſs urgent. Whenever I ſhall learn his majeſty's pleaſure on the ſubject of your repreſentation, you may depend, ſir, on ſpeedily receiving my reply; to the preparation of which, but little time will be requiſite on my part, as, in conſequence of my exertions for the purpoſe, I have already collected, in this country, the evidence neceſſary to ſubſtantiate moſt of the principal facts advanced in my ſtatement of the 5th of March, to which that repreſentation was intended as an anſwer.

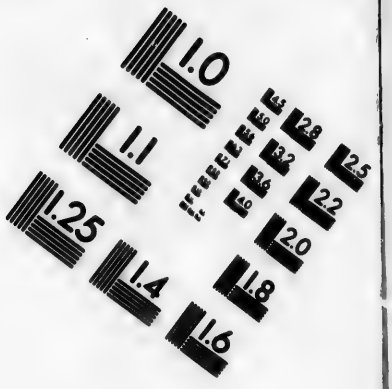
There is one paſſage in your letter of yeſterday, ſir, which it becomes me to take ſome notice—The paſſage I allude to, is that wherein you mention "the blood and treaſure which the detention of the weſtern poſts coſts the United States daily." I cannot eaſily conjecture the motives in which this declaration has originated. After the evidence that this government has repeatedly received, of the ſtrict neutrality obſerved by the king's governors of Canada, during the preſent conteſt between the United States and the Indians, and of the diſpoſition of thoſe officers to facilitate, as far as may be in their power, any negociations for peace, I will not, for a moment, imagine, that the expreſſion I have cited, was intended to convey the inſinuation of their having purſued a different conduct, or that it had any reference to thoſe aſſertions, which have been lately diſſeminated, with more than uſual induſtry, through the public prints in this country, that the weſtern poſts have been uſed, by the government of Canada, as the medium of ſupplying military ſtores to the Indians now engaged in war with the United States.

I can aſſure you, ſir, that if the delay, on the part of my country, in the execution of certain articles of the treaty of peace, is ſuch as to create diſquietude in this government, I alſo experience ſimilar impreſſions, with reſpect to thoſe articles which have, hitherto, not been carried into effect by the United States; as I am perpetually receiving complaints from the Britiſh creditors, and their agents in this country, of their inability to procure legal addreſs in *any* of the courts of law in one or two of the ſouthern ſtates; in which ſtates, the greateſt part of the debt remaining due to the ſubjects of Great Britain, ſtill continues to exiſt in the ſame condition as that in which it was at the concluſion of the war.

I have the honor to be, with great reſpect,
Sir, your moſt obedient ſervant,

 GEO. HAMMOND.





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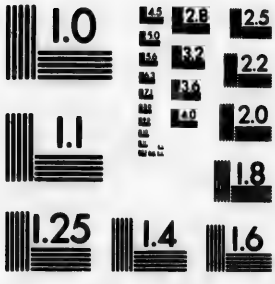

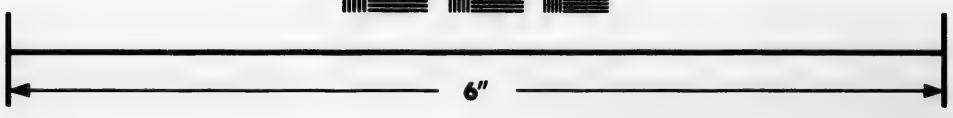

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Mr. Jefferſon, Secretary of State, to Mr. Hammond, Miniſter Plenipotentiary of Great Britain.

GERMANTOWN, November 13th, 1793.

SIR,

IN a letter which I had the honor of addreſſing you on the 19th of June laſt, I aſked for information, when we might expect an anſwer to that which I had written you on the 29th of May was twelvemonth, on the articles ſtill unexecuted of the treaty of peace between the two nations.

In your anſwer of the next day, you were pleaſed to inform me, that you had forwarded the letter of the 29th of May, 1792, in the courſe of a few days after its date, and that you daily expected inſtructions on the ſubject; that you preſumed theſe had been delayed in conſequence of the very intereſting events which had occurred in Europe, and which had been of a nature ſo preſſing and important, as probably to have attracted the whole attention of your miniſters, and thus to have diverted it from objects more remote, and that, might, perhaps, have been regarded as ſomewhat leſs urgent.

I have it again in charge, from the preſident of the United States, to aſk, whether we can now have an anſwer to the letter of May 29, before mentioned?

I have the honor to be, with great reſpect,
Sir,
Your moſt obedient,
And moſt humble ſervant,

TH. JEFFERSON.

Mr. Hammond, Miniſter Plenipotentiary of Great Britain, to Mr. Jefferſon, Secretary of State.

LANSDOWN, 22d November, 1793.

SIR,

IN anſwer to your letter of the 13th current, I have the honor of informing you, that I have not yet received ſuch definitive inſtructions, relative to your communication of the 29th of May, 1792, as will enable me immediately to renew the diſcuſſions upon the ſubject of it, which have been for ſome time ſuſpended.

I can, however, repeat with confidence, my conviction, that the continuance of the cauſe, to which I alluded in my letter of the 20th of June laſt, and no other, has protracted this delay to the preſent period.

I have the honor to be,
With ſentiments of great reſpect,
Sir,
Your moſt obedient,
humble ſervant,

GEO. HAMMOND.

Mr. Jefferſon, Secretary of State, to Mr. Pinckney, Miniſter Plenipotentiary from the United States with Great Britain.

PHILADELPHIA, September 7th, 1793.

SIR,

WE have received, through a channel which cannot be conſidered as authentic, the copy of a paper, ſtyled, "Additional inſtructions to the commanders of his majeſty's ſhips of war, and privateers," &c. dated at St. James's, June 8th, 1793. If this paper be authentic, I have little doubt but that you will have taken meaſures to forward it to me. But as your communication of it may miſcarry, and time, in the mean while, be loſt, it has been thought better that it ſhould be ſuppoſed authentic; that, on that ſuppoſition I ſhould notice to you its very exceptionable nature, and the neceſſity of obtaining explanations on the ſubject, from the Britiſh government; deſiring, at the ſame time, that you will conſider this letter as proviſionally written only, and as if never written, in the event that the paper, which is the occaſion of it, be not genuine.

The 1ſt article of it permits all veſſels, laden wholly, or in part, with corn, flour, or meal, bound to any port in France, to be ſtopped, and ſent into any Britiſh port, to be purchaſed by that government, or to be releaſed only on the condition of ſecurity given by the maſter, that he will proceed to diſpoſe of his cargo in the ports of ſome country *in amity with his majeſty*.

This article is ſo manifeſtly contrary to the law of nations, that nothing more would ſeem neceſſary, than to obſerve that it is ſo. Reaſon and uſage have eſtabliſhed, that when two nations go to war, thoſe who chuſe to live in peace, retain their natural right to purſue their agriculture, manufactures, and other ordinary vocations; to carry the produce of their induſtry, for exchange, to all nations, belligerent or neutral, as uſual; to go and come freely, without injury or moleſtation; and, in ſhort, that the war among others, ſhall be, for them, as if it did not exiſt. One reſtriction on their natural rights, has been ſubmitted to by nations at peace; that is to ſay, that of not furniſhing to either party implements merely of war, for the annoyance of the other, nor any thing whatever to a place blockaded by its enemy. What theſe implements of war are, has been ſo often agreed, and is ſo well underſtood, as to leave little queſtion about them at this day. There does not exiſt, perhaps, a nation in our common hemiſphere, which has not made a particular enumeration of them, in ſome or all of their treaties, under the name of contraband. It ſuffices, for the preſent occaſion, to ſay, that corn, flour, and meal, are not of the claſs of contraband, and conſequently remain articles of free commerce. A culture which like that of the ſoil, gives employment to ſuch a proportion of mankind, could never be ſuſpended by the whole earth, or interrupted for them, whenever any two nations ſhould think proper to go to war.

The ſtate of war, then exiſting between Great Britain and France, furniſhes no legitimate right to either to interrupt the agriculture of the United States, or the peaceable exchange of its produce with all

nations; and consequently, the assumption of it will be as lawful hereafter as now, in peace as in war. No ground, acknowledged by the common reason of mankind, authorises this act now, and unacknowledged ground may be taken at any time and all times. We see, then, a practice begun, to which no time, no circumstances, prescribe any limits, and which strikes at the root of our agriculture, that branch of industry, which gives food, clothing, and comfort, to the great mass of the inhabitants of these states. If any nation whatever, has a right to shut up to our produce, all the ports of the earth, except her own and those of her friends, she may shut up these also, and so confine us within our own limits. No nation can subscribe to such pretensions; no nation can agree, at the mere will or interest of another, to have its peaceable industry suspended, and its citizens reduced to idleness and want. The loss of our produce if destined for foreign markets, or that loss which would result from an arbitrary restraint of our markets, is a tax too serious for us to acquiesce in. It is not enough for a nation to say, we and our friends will buy your produce. We have a right to answer, that it suits us better to sell to their enemies as well as their friends. Our ships do not go to France to return empty; they go to exchange the surplus of one produce, which we can spare, for surpluses of other kinds, which they can spare, and we want; which they can furnish on better terms, and more to our mind, than Great Britain or her friends. We have a right to judge for ourselves, what market best suits us, and they have none to forbid to us the enjoyment of the necessaries and comforts which we may obtain from any other independent country.

This act too, tends directly to draw us from that state of peace, in which we are wishing to remain. It is an essential character of neutrality to furnish no aids (not stipulated by treaty) to one party, which we are not equally ready to furnish to the other. If we permit corn to be sent to Great Britain and her friends, we are equally bound to permit it to France. To restrain it, would be a partiality which might lead to war with France, and, between restraining it ourselves, and permitting her enemies to restrain it unrightfully, is no difference. She would consider this as a mere pretext, of which she would not be the dupe, and on what honorable ground could we otherwise explain it? Thus we should see ourselves plunged, by this unauthorised act of Great Britain, into a war, with which we meddle not, and which we wish to avoid, if justice to all parties and from all parties, will enable us to avoid it. In the case, where we found ourselves obliged, by treaty, to withhold from the enemies of France, the right of arming in our ports, we thought ourselves, in justice, bound to withhold the same right from France also, and we did it. Were we to withhold from her, supplies of provisions, we should, in like manner, be bound to withhold them from her enemies also, and thus shut to ourselves all the ports of Europe, where corn is in demand, or make ourselves parties in the war. This is a dilemma, which Great Britain has no right to force upon us, and for which

no pretext can be found, in any part of our conduct. She may, indeed, feel the deſire of ſtarving an enemy nation; but ſhe can have no right of doing it at our loſs, nor of making us the inſtrument of it.

The preſident, therefore, deſires that you will immediately enter into explnaations on this ſubject with the Britiſh government. Lay before them in friendly and temperate terms, all the demonſtrations of the injury done us by this act, and endeavor to obtain a revocation of it, and full indemnification to any citizens of theſe ſtates, who may have ſuffered by it in the mean time. Accompany your repreſentations with every aſſurance of our earneſt deſire to live on terms of the beſt friendſhip and harmony with them, and to found our expectations of juſtice on their part, on a ſtrict obſervance of it on ours.

It is with concern, however, I am obliged to obſerve, that ſo marked has been the inattention of the Britiſh court, to every application which has been made to them, on any ſubject by this government (not a ſingle anſwer, I believe, having ever been given to one of them except in the act of exchanging a miniſter) that it may become unavoidable in certain caſes, where an anſwer of ſome ſort is neceſſary, to conſider their ſilence as an anſwer—perhaps this is their intention. Still, however, deſirous of furniſhing no colour of offence, we do not wiſh you to name to them any term for giving an anſwer. Urge one as much as you can without commitment, and on the 1ſt day of December, be ſo good as to give us information of the ſtate in which this matter is, that it may be received during the ſeſſion of congreſs.

The 2d article of the ſame inſtruction allows the armed veſſels of Great Britain to ſeize, for condemnation, all veſſels on their firſt attempt to enter a blockaded port, except thoſe of Denmark and Sweden, which are to be prevente l only, but not ſeized, on their firſt attempt. Of the nations inhabiting the ſhores of the Atlantic ocean and practiſing its navigation, Denmark, Sweden, and the United States, alone are neutral. To declare then all *neutral* veſſels (for as to the veſſels of the *belligerent* powers, no order was neceſſary) to be legal prize, which ſhall attempt to enter a blockaded port, except thoſe of *Denmark and Sweden*, is exactly to declare that the *veſſels of the United States*, ſhall be lawful prize, and thoſe of Denmark and Sweden ſhall not. It is of little conſequence, that the article has avoided naming the United States, ſince it has uſed a deſcription applicable to them, and to them alone, while it exempts the others from its operation, by name. You will be pleaſed to aſk an explanation of this diſtinction, and you will be able to ſay in diſcuſſing its juſtice, that in every circumſtance we treat Great Britain on the footing of the moſt favored nation, where our treaties do not preclude us, and that even theſe are juſt as favorable to her, as hers are to us. Poſſibly ſhe may be bound by treaty, to admit this exception, in favor of Denmark and Sweden, but ſhe cannot be bound by treaty to withhold it from us, and if it be withheld merely becauſe not eſtabliſhed with us by

treaty, what might not we, on the ſame ground, have withheld from Great Britain, during the ſhort courſe of the preſent war, as well as the peace which has preceded it?

Whether theſe explanations with the Britiſh government, ſhall be verbal or in writing, is left to yourſelf. Verbal communications are very inſecure, for it is only to deny them or to change their terms, in order to do away their effect at any time; thoſe in writing have many and obvious advantages, and ought to be preferred unleſs there be obſtacles of which we are not apprized.

I have the honor to be,
With great and ſincere eſteem,
Dear ſir,
Your moſt obedient ſervant,
TH. JEFFERSON.

(Copy.)

George R.

L. S.

Additional Inſtructions to the Commanders of his Majeſty's Ships of War, and Privateers that have or may have Letters of Marque againſt France. Given at our Court at St. James's, the eighth Day of June, 1793, and in the thirty-third Year of our Reign.

1ſt, THAT it ſhall be lawful to ſtop and detain all veſſels loaded wholly or in part with corn, flour or meal, bound to any port in France, or any port occupied by the armies of France, and to ſend them to ſuch ports as ſhall be moſt convenient, in order that ſuch corn, meal or flour, may be purchaſed on behalf of his majeſty's government, and the ſhips be releaſed after ſuch purchaſe, and after a due allowance for freight, or that the maſters of ſuch ſhips on giving due ſecurity, to be approved of by the court of admiralty, be permitted to proceed to diſpoſe of their cargoes of corn, meal or flour, in the ports of any country in amity with his majeſty.

2d, That it ſhall be lawful for the commanders of his majeſty's ſhips of war, and privateers that have, or may have letters of marque againſt France, to ſeize all ſhips, whatever be their cargoes, that ſhall be found attempting to enter any blockaded port, and to ſend the ſame for condemnation, together with their cargoes, except the ſhips of Denmark and Sweden, which ſhall only be prevented from entering on the firſt attempt, but on the ſecond ſhall be ſent in for condemnation likewiſe.

3d, That in caſe his majeſty ſhall declare any port to be blockaded, the commanders of his majeſty's ſhips of war, and privateers that have, or may have, letters of marque againſt France, are hereby enjoined if they meet with ſhips at ſea, which appear from their papers to be deſtined to ſuch blockaded port, but to have ſailed from the ports of their reſpective countries, before the declaration of the blockade ſhall have arrived there to advertiſe them thereof, and to admoniſh them to go to other ports, but they are not to moleſt them afterwards, un-

leſs it ſhall appear, that they have continued their courſe with intent to enter the blockaded port, in which caſe they ſhall be ſubject to capture and condemnation, as ſhall likewiſe all ſhips whereſoever found, that ſhall appear to have ſailed from their ports, bound to any port which his majeſty ſhall have declared to be blockaded, after ſuch declaration ſhall have been known in the country from which they ſailed, and all ſhips which in the courſe of the voyage ſhall have received notice of the blockade in any manner, and yet ſhall have purſued their courſe with intent to enter the ſame.

G. R.

Mr. Hammond, Miniſter Plenipotentiary of Great Britain, to Mr. Jefferſon, Secretary of State.

PHILADELPHIA, 12th September, 1793.

SIR,

I HAVE the honor of tranſmitting to you a copy of an additional inſtruction, given by his majeſty's order in council, to the commanders of the Britiſh armed veſſels, reſpecting the commerce of neutral nations with France, in the articles of grain, and alſo with regard to ſuch French ports as may, in the courſe of the war, be blockaded by the veſſels of his majeſty, or of the other powers engaged in the war.

In communicating to you this paper, it is neceſſary for me to remark, that by the law of nations, as laid down by the moſt modern writers, it is expreſsly ſtated, that all proviſions are to be conſidered as contraband, and as ſuch, liable to confiſcation; in the caſe where the depriving an enemy of theſe ſupplies, is one of the means intended to be employed for reducing him to reaſonable terms of peace—The actual ſituation of France, is notoriouſly ſuch, as to lead to the employing this mode of diſtreſſing her by the joint operations of the different powers engaged in the war, and the reaſoning which in theſe authors appplies to *all* caſes of this ſort, is certainly much more applicable to the *preſent* caſe, in which the diſtreſs reſults from the unuſual mode of war, employed by the enemy himſelf, in having armed almoſt the whole labouring claſs of the French nation, for the purpoſe of *commencing* and ſupporting hoſtilities againſt all the governments of Europe—But this reaſoning is moſt of all applicable to the circumſtances of a trade, which is now, in a great meaſure, entirely carried on by the actually ruling party of France itſelf, and which is, therefore, no longer to be regarded, as a mercantile ſpeculation of individuals, but as an immoderate operation of the very perſons who have declared war, and are now carrying it on againſt Great Britain—On theſe conſiderations, therefore, the powers at war would have been perfectly juſtifiable if they had conſidered all proviſions as contraband; and had directed them as ſuch to be brought in for confiſcation.

But the preſent meaſure purſued by his majeſty's government, ſo far from going to the extent, which the law of nations and the circumſtances of the caſe would have warranted, only has prevented the

French from being ſupplied with *corn*, omitting all mention of *other* proviſions, and even with reſpect to corn, the regulation adopted, is one, which inſtead of confiſcating the cargoes, ſecures to the proprietors, ſuppoſing them neutral, a full indemnification for any loſs they may poſſibly ſuſtain.—

With reſpect to the rule that has been adopted relative to ports blockaded, it is conformable to the general law and practice of all nations, and the exception there mentioned as to Denmark and Sweden, has reference to exiſting treaties with thoſe powers: and cannot, therefore, give any juſt grounds of umbrage or jealouſy to other powers, between whom and Great Britain, no ſuch treaties ſubſiſt.

Before I conclude this letter, I deem it proper to expreſs my hope that you, ſir, will perceive in the communication, itſelf, of this paper, a proof of my willingneſs to furniſh this government with any intelligence that may be intereſting to it, and thereby to anticipate the neceſſity of enquiries on the ſubject, and I cannot avoid farther adding my conviction that the explanation I have now given of this meaſure, will ſatisfactorily evince the propriety of recurring to it in the preſent inſtance.

I have the honor to be,
With ſentiments of great reſpect,
Sir,
Your moſt obedient humble ſervant,
GEO. HAMMOND.

Mr. Jefferſon, Secretary of State, to Mr. Hammond, Miniſter Plenipotentiary of Great Britain.

September 22d, 1793.

SIR,

I HAVE yet to acknowledge the receipt of your favor of the 12th inſtant, covering an additional inſtruction to the commanders of Britiſh armed veſſels, and explaining its principles; and I receive it readily as a proof of your willingneſs to anticipate our enquiries on ſubjects intereſting to us. Certainly none was ever more ſo than the inſtruction in queſtion, as it ſtrikes at the root of our agriculture, and at the means of obtaining for our citizens in general, the numerous articles of neceſſity and comfort which they do not make for themſelves, but have hitherto procured from other nations by exchange. The paper had been before communicated to the preſident, and inſtructions immediately ſent to our miniſter at London, to make proper repreſentations on the ſubject, in the effect of which we have all that confidence which the juſtice of the Britiſh government is calculated to inſpire. That "all proviſions are to be conſidered as contraband in the caſe where the depriving an enemy of theſe ſupplies is one of the means *intended to be employed*," or in any caſe but that of a place *actually blockaded*, is a poſition entirely new. However, the diſcuſſion having been transferred to another place, I forbear to enter into it here.

We had conjectured, but did not before certainly know, that the distinction which the instruction makes between Denmark and Sweden, on the one hand, and the United States on the other, in the case of vessels bound to ports blockaded, was on the principle explained by you, that what was yielded to those countries by treaty, it is not unfriendly to refuse to us, *because not yielded to us by treaty*. I shall not contest the right of the principle, as a right to its reciprocity necessarily results to us.

I have the honor to be,
with great respect,
Sir,
Your most obedient servant,
TH. JEFFERSON.

LONDON, 5th July, 1793.

DEAR SIR,

THE enclosed copy of additional instructions to the commanders of British men of war and privateers, will show the further embarrassment to which our commerce will be subjected in the present war. These instructions, though dated the 8th of June, were not finally issued to the admiralty till the 28th. Lord Grenville justifies them from the authority of the writers on the law of nations, particularly 2d Vattel, 72, 73; and urges, that by the doctrine there laid down, they have not gone so far as they would have been justified in proceeding, considering the prospect they have of reducing their enemy by such means, the instructions not extending to all kinds of provisions, nor to confiscations of those kinds that are mentioned. That the existing circumstances justifying them in considering grain as among contraband articles, they come within the proclamation issued by the president. That the French government are, in fact, the only importers of grain into that country. That the measure was so guarded by directing the property to be paid for, together with the freight, that the owners could suffer no loss, a liberal price being always allowed in these cases, and he was hopeful the matter would be so conducted as to give satisfaction to the parties concerned. I urged every argument that suggested itself to me, in support of the neutral rights which I contended were injured in this instance, pointed to inconveniencies that would attend the execution of the instructions, and urged that the case put by Vattel, of a well-grounded hope of reducing the enemy by famine, did not exist, provisions being now cheaper in the ports of France than in those of England. Lord Grenville on being asked, said Spain would pursue the same line of conduct, and upon its being objected that even their late convention with Russia, did not extend to this object; he answered that though it was not expressly mentioned, it was fully understood by both parties, to be within the intention of it. At the close of the conversation, I told him I should transmit these instructions to you, accompanied

by his reasons in their justification. Lord Grenville spoke in high terms of approbation of the answers to Mr. Hammond's memorials, which he received by the packet.

I have the honor to be, &c.

THOMAS PINCKNEY.

The Secretary of State.

Mr. Pinckney, Minister Plenipotentiary of the United States, with Great Britain, to Mr. Jefferson, Secretary of State.

LONDON, August 15th, 1793.

DEAR SIR,

THE frequent interruptions our vessels experience, especially in navigating the European seas, induce me to address you in cypher.

I have had several conversations with Lord Grenville, but do not find that this government will at all relax in the measures they have adopted towards the neutral nations—I have urged every thing in my power, in opposition to the policy as well as the right of these measures, and have assured him they will be considered by our government as infringements of the neutral rights. As I cannot speak from authority on the subject, I have not said what measures we shall adopt in consequence, although I have strongly insisted on the detriment to the commercial interests of this country, which must necessarily ensue from the various impediments opposed to a free intercourse, as well as from the ill-will they will excite. I may, perhaps, estimate too highly the blessings of peace in general, and the advantages of our neutral situation, notwithstanding all the deductions, to be made on account of the conduct of this country. But it appears to me, that if the United States should deem it necessary to go beyond the line of remonstrance on this occasion, prudence will dictate, that our opposition should be confined to commercial regulations.

With the utmost respect, I have the honor to be,

Dear Sir, &c.

THOMAS PINCKNEY.

(Copy.)

MR. PINCKNEY presents his compliments to Lord Grenville, and has the honor of inclosing, in conformity to his lordship's desire, a memorandum relating to the American ship Eliza, to which he has added a note concerning two other vessels; these form only a small part of the American vessels brought into the different ports of Great Britain. Mr. P. thinks it unnecessary to add any thing to what he has had the honor of personally mentioning to his lordship on this subject—but has a firm reliance that in the execution of measures which he is assured the government of the United States will consider as infringements of the neutral rights, Lord Grenville's endeavours will not be wanting to prevent any unnecessary aggravation of the inconveniencies arising therefrom.

Great Cumberland Place, 22d July, 1793.

Mr. Pinckney, Minister Plenipotentiary of the United States, with Great Britain, to Mr. Jefferson, Secretary of State.

LONDON, 28th August, 1793.

DEAR SIR,

HAVING in my former communications related the conduct of this government to the neutral powers, with the reasons assigned by Lord Grenville for this conduct, which reasons, as far as they concern enemy's property on board of neutral vessels, his lordship informed me had directed Mr. Hammond to represent fully to our government. I have only to add, that from subsequent conversations, there does not appear any probability of the British government relinquishing this point—these measures are attended, for the present, with greater inconvenience, and consequent irritation to our citizens, on account of the court of admiralty having, as yet, given no decision on the freight, demurrage, &c. to be allowed to the vessels brought in; on this subject I have made repeated applications (for although I am convinced of the respect due to the proceedings of the judiciary of every nation, yet if, in any case, a delay of justice may be deemed equivalent to a denial, certainly may, in the case of vessels, circumstanced as many of ours are) and the court of admiralty having adjourned to the 4th of September, without any decision on these points, I reiterated my representation to the secretary of state, who appeared to be surprized at the farther procrastination; and I am, from circumstances, inclined to think, that he will endeavour to accelerate this business, at the time to which the court stands adjourned. As I thought it right that the evidence of our opposition to the measures pursued here, should not rest merely on official conversations, I took an opportunity of bringing forward the discussion in writing, so far, at least, as to amount to an authentic document of our claim, with some of the reasons in support of it, at the same time that I endeavoured so to guard it, as to leave our government unembarrassed in any line they might think proper to pursue. I enclose a copy of what passed on this subject.

I have the honor to be, &c.

TH. PINCKNEY.

(Copy.)

MR. PINCKNEY has the honor of acknowledging the receipt of Lord Grenville's note of the 31st ult. and of expressing his obligation for the assurance therein contained, that his lordship's endeavours will be exerted to prevent, as far as possible, any inconvenience to which the European commerce of the citizens of the United States of America may be liable, from the measures unavoidably resulting from the existing state of war; and as his lordship has adverted to an observation contained in Mr. Pinckney's note of the 22d ult. he will take the liberty of briefly stating the principal reasons which suggested his remark, that "some of the measures of this government will be considered by the United States as infringements on the neutral rights." The measures alluded to,

are particularly thoſe which contravene the principle, that free ſhips make free goods, and which prevent certain articles of proviſion, the produce of the United States, from being carried in their own veſſels to the unblockaded ports of France. With reſpect to the firſt, it is conceived that as commerce has been more diffuſively cultivated, and its principles better underſtood, the law of nations, relating thereto, has received material improvements ſince the publication of the moſt modern and moſt approved writers on that ſubject, and that whatever doubts may formerly have exiſted on this point, that the ſenſe of a conſiderable majority of the maritime powers of Europe has, within the laſt twenty years, been clearly expreſſed in favor of the principle of free ſhips making free goods, which has been manifeſted, by their practice, in the latter years of the American war, by the ſtipulations entered into at that time, and by their having inſerted the ſame in their lateſt treaties. Of theſe, the treaties entered into between the United States and ſeveral European powers, are among the moſt recent: all of which ſupport this doctrine, by expreſs ſtipulation; and even Great Britain muſt admit, that this principle contains nothing diſhonorable or improper, ſince ſhe has adopted it in her commercial treaty with France; and it may not be amiſs here to remark, that the commerce of the United States is as advantageous to Great Britain, taking all circumſtances into conſideration, as that of France has been: Suppoſing, then, the queſtion of right to be waved, would it be deemed unreaſonable for the United States to expect equal advantages with thoſe France would have enjoyed in ſimilar circumſtances? But the right now contended for, appears not only ſupported by modern practice, but to be conformable to reaſon: For if two nations have the misfortune of being engaged in war againſt each other, it is evidently contrary to the dictates of reaſon, that a third, who has no concern in the quarrel and has offended neither party, ſhould be injured thereby, or be debarred from that intercourſe with either, which is not immediately connected with military operations. And altho' people in a ſtate of war, have, in general, a right to ſeize or deſtroy their enemy's property, yet they cannot be juſtified in going, for that purpoſe, upon neutral territory (in conformity to which doctrine, the Britiſh ſhip Grange, captured by a French frigate in the bay of Delaware, was lately liberated by order of the American government;) and the diſtinction drawn between neutral territory and neutral veſſels, does not appear to form a difference ſufficiently ſubſtantial to preclude the application of the ſame principles to both. It may be here added, that in the laſt war, the Americans adopted, and carried into effect, this principle to the advantage of Britiſh ſubjects, having actually liberated ſeveral Britiſh cargoes captured on board of neutral veſſels. Moſt of the arguments oppoſed to the firſt meaſure, will apply, with equal force, to that of bringing American proviſion veſſels, bound to the unblockaded ports of France, into this kingdom—To which it may be added, that if Mr. Pinckney's information is juſt (and he has omitted no opportunity, which his ſituation has afforded him, of obtaining accurate intelligence on this ſubject) the

reaſon aſſigned by writers on the law of nations, for meaſures of this nature, namely, the well-grounded hope of reducing an enemy by famine, does not apply, in the preſent inſtance; becauſe the price of the articles pointed out in the additional inſtructions, is lower in the French ports, than in thoſe of this kingdom, where there is, by no means, any ſcarcity. Arguments, founded on the inconvenience attending the execution of meaſures, may fairly be adduced againſt their adoption; theſe are ſo numerous, and ſo obviouſly oppoſe to both the meaſures now under conſideration, that it would be ſuperfluous to ſelect any but thoſe circumſtances which preſs in a peculiar manner upon the citizens of the United States. Under this head, it may be obſerved, that for want of arrangements being made for the ſecurity of American ſeamen in the ports of this country, they are ſubject to the various hardſhips Mr. Pinckney has ſo frequently detailed to Lord Grenville; of courſe their being captured and brought into theſe ports, renders them liable to thoſe diſadvantages they would otherwiſe have avoided. Grain being the principal export of the United States, if they are prevented from carrying that commodity to the French ports, they are not only deprived of that branch of commerce, but are prevented from drawing thoſe commodities from France, for which they have occaſion; for in caſe of the capture and ſale of their property here, other regulations prevent remittances being made from hence to France, to purchaſe the ſupplies they want. Another inconvenience peculiar to the Americans, is, that the ſimilarity of language renders them more obnoxious to the irritation ariſing from contumelious treatment, too often exhibited by the captors to thoſe whom they have taken; which may, in part, be attributed to thoſe perſons being intereſted in widening the field of capture, who are neceſſarily employed in executing the meaſure; it renders them alſo more acceſſible to offers of bribery, to commit unworthy actions; on both of which ſubjects, repreſentations have been already made; but the evil, Mr. Pinckney moſt ſincerely deprecates, is the animoſity the execution of theſe meaſures almoſt unavoidably generates between the parties concerned therein; which, by extending in their reſpective countries, may eventually diminiſh that friendſhip, which it is the intereſt, and, he truſts, the deſire of both nations to augment.

Theſe arguments might be detailed much more at length, and others added to corroborate them; but Mr. Pinckney has deemed it neceſſary only to touch upon ſome of the reaſons on which his obſervation was founded, to obviate the idea of his wiſhing to claim, in behalf of the United States, exemptions to which they are not, in reaſon, entitled. At the ſame time, he aſſures Lord Grenville of the due ſenſe which will, at all times, be entertained by his country, for any circumſtances of particular attention to their commerce, and of their earneſt deſire, by a reciprocation of good offices, to increaſe the mutual advantages of both nations.

Mr. Pinckney begs leave to make his beſt acknowledgments to Lord Grenville's declaration of perſonal eſteem, and to offer his ſentiments of reſpectful conſideration for his lordſhip.

(Copy.)

WHITEHALL, July 31ſt, 1793.

LORD GRENVILLE has had the honor to receive Mr. Pinckney's note of the 22d July, with the memorandum accompanying it; he has directed enquiry to be made reſpecting the caſes of the ſeveral ſhips mentioned by Mr. Pinckney, which he apprehends, however, to be all in a courſe of legal adjudication, and conſequently not in a ſtate to admit of the interference of government.

Mr. Pinckney may be aſſured of Lord Grenville's beſt endeavours at all times, to prevent, as far as poſſible, any inconvenience ariſing to the ſubjects of the United States in their European commerce, from the meaſures which unavoidably reſult from that ſtate of war, in which the maritime countries of Europe are engaged. But it is impoſſible for him not to remark, in reply to the obſervation contained in Mr. Pinckney's note, that the ſteps adopted by this government, ſo far from being infractions of the neutral rights, are more favorable than the law of nations on that ſubject, as eſtabliſhed by the moſt modern and moſt approved writers upon it; and that the rule laid down here, has been marked with circumſtances of particular attention to the commerce of America,* in the inſtance which Lord Grenville has already had the honor of pointing out to Mr. Pinckney.

Lord Grenville avails himſelf of this opportunity, to aſſure Mr. Pinckney of his ſincere eſteem and conſideration.

* *This alludes to rice not being included in the prohibition.* T. P.

Mr. Pinckney, Miniſter Plenipotentiary of the United States, with Great Britain, to Mr. Jefferſon, Secretary of State.

LONDON, 25th September, 1793.

DEAR SIR,

NO alteration has taken place ſince my laſt, in the conduct of this government towards the neutral powers; they ſtill aſſert the propriety of preventing the proviſions ſpecified in their additional inſtructions, from being ſent to French ports, and of making prize of their enemy's property, in whatever veſſels it may be found —the execution of theſe meaſures, of courſe, creates much uneaſineſs among our citizens, whoſe commerce is much injured thereby— I receive aſſurances that their court will amply redreſs the irregularities which may be committed by their cruiſers, upon proper application; but theſe are frequently of a nature, to be with difficulty brought under the cognizance of the judiciary; and I find our ſeafaring people in general, rather inclined to ſubmit to the firſt inconvenience, than riſk the event of a law-ſuit. The court of admiralty in the beginning of the preſent month, adjudged freight, demorrage,

and expenſes to an American veſſel, whoſe cargo was condemned. I am hopeful, ſince this precedent, that it will be allowed in all other caſes, which will, of courſe, prevent ſo many of our veſſels from being brought in. The protection afforded our ſeamen, remains, alſo, on the ſame footing; they profeſs a willingneſs to ſecure to us all real American ſeamen, when proved to be ſuch; but the proof they will not diſpenſe with—our conſuls are allowed to give protections, where the maſter of the veſſel, and the mariner, ſwear, that the party is an American native, and citizen, which protections, in general, are reſpected, though ſome irregularities occaſionally take place—So many objections are made to the arrangement we propoſe on this ſubject, that I ſee no proſpect of its taking place.

I remain, with great and ſincere reſpect,
Dear Sir,
Your, &c. &c.
THOMAS PINCKNEY.

Extract from the Convention between his Britannic Majeſty and the Empreſs of Ruſſia, ſigned at London the 25th of March, 1793.

ARTICLE 3d. Their ſaid majeſties reciprocally engage, to ſhut all their ports againſt French ſhips, not to permit the exportation in any caſe, from their ſaid ports for France, of any military or naval ſtores, or corn, grain, ſalt-meat, or other proviſions; and to take all other meaſures in their power for injuring the commerce of France, and for bringing her, by ſuch means, to juſt conditions of peace.

ARTICLE 4th. Their majeſties engage to unite all their efforts to prevent other powers, not implicated in this war, from giving on this occaſion of common concern to every civilized ſtate, any protection whatever, directly, or indirectly, in conſequence of their neutrality, to the commerce or property of the French on the ſea, or in the ports of France.

BY the treaty between his Britannic majeſty and the king of Sardinia, ſigned at London the 25th April, 1793, the latter engages to keep on foot, during the war, an army of fifty thouſand men, for the defence of his dominions, as well as to act againſt the common enemy; and the former engages to ſend into the Mediterranean, a reſpectable fleet to be employed, as circumſtances ſhall permit, in that quarter. By the 2d. article, Great Britain is engaged to furniſh to Sardinia, during the war, a ſubſidy of two hundred thouſand pounds ſterling, payable quarterly, in advance; the firſt payment at the date of this treaty. By the 3d. article, his Britannic majeſty guarantees to his Sardinian majeſty, the reſtitution of all the parts of his dominions which have, or may be taken from him, during the war. The 4th & 5th articles make all hoſtilities, in conſequence of this treaty, a common cauſe, and direct the exchange of ratifications in two months or ſooner.

DEPARTMENT OF *STATE*,

To wit:

I HEREBY certify, that the preceding copies, beginning with a letter of November 29th, 1791, and ending with one of September 25th, 1793; and the paper it enclosed, are from originals, or from authentic copies in the Office of the Department of State.

GIVEN under my hand, this 4th day of December, 1793.

TH. JEFFERSON.